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of Ontario**
Second Session, 37th Parliament

**Assemblée législative
de l'Ontario**
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**Official Report
of Debates
(Hansard)**

**Journal
des débats
(Hansard)**

Thursday 26 April 2001

Jeudi 26 avril 2001

**Standing committee on
public accounts**

**Comité permanent des
comptes publics**

**Special Report,
Provincial Auditor:
Ministry of the Environment**

**Rapport spécial,
Vérificateur provincial :
Ministère de l'Environnement**



**Chair: John Gerretsen
Clerk: Tonia Grannum**

**Président : John Gerretsen
Greffière : Tonia Grannum**

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LEGISLATIVE ASSEMBLY OF ONTARIO

ASSEMBLÉE LÉGISLATIVE DE L'ONTARIO

STANDING COMMITTEE ON
PUBLIC ACCOUNTSCOMITÉ PERMANENT DES
COMPTES PUBLICS

Thursday 26 April 2001

Jeudi 26 avril 2001

The committee met at 1030 in committee room 1, following a closed session.

SPECIAL REPORT,
PROVINCIAL AUDITOR
MINISTRY OF THE ENVIRONMENT

Consideration of section 3.06, operations division.

The Chair (Mr John Gerretsen): Good morning, everybody. I'd like to call to order the meeting of the standing committee on public accounts, dealing with section 3.06 of the 2000 special report of the Provincial Auditor, dealing with the operations division of the Ministry of the Environment.

Good morning, Deputy, and members of your staff. If you could make an opening statement and limit it to 15 minutes, we will then throw it open for questions for the committee members. Go ahead.

Ms Jan Rush: I want to begin by thanking the Provincial Auditor for the 2000 annual report. We see this report as a source of guidance on how and where we can continuously improve how we do our work of protecting Ontario's environment.

I want to assure the members of the standing committee on public accounts that the ministry is addressing all of the auditor's recommendations. We have already made considerable progress. We have moved decisively in several key areas, including: rigorous inspections, self-monitoring and compliance reporting for municipal water treatment plants; a strategic environmental SWAT team; tougher penalties and a renewed emphasis on mandatory compliance; and more comprehensive information management systems.

With the limited time I have this morning, I'd like to focus on what the ministry has done, and will do, to address the following issues: updating of certificates of approval, inspection coverage, resolving violations and managing inspections.

I am joined this morning by Bob Breeze, the associate deputy minister; Carl Griffith, assistant deputy minister, operations division; Dana Richardson, assistant deputy minister, corporate management division; and sitting with us is Wilf Ng, director, investigations and enforcement branch; John Stager, director, environmental SWAT team; Michael Williams, director, environmental assessment and approvals branch; Henry Krupa, director, legal services branch; and Tony Rockingham, director, air

policy and climate change branch. They will be happy to answer any questions you have on these issues or any others raised in the auditor's report.

The auditor has raised a number of issues relating to issuance of certificates of approval.

We are fundamentally changing the way we issue and amend certificates of approval. Our overriding goal is to ensure that certificates are up to date, accurate and, most importantly, complied with.

We are improving our approvals system through our program effectiveness review. The terms of reference for that review have been modified to incorporate the Provincial Auditor's recommendations. The review will be completed later this spring, with implementation beginning in the fall.

We have done extensive research on best practices in other jurisdictions as part of the program effectiveness review. To date, the review team has looked at approval practices in seven other jurisdictions, including the US Environmental Protection Agency, Alberta, Quebec and Michigan.

We are considering a number of options, including periodic reviews ranging from every three to 10 years. Review frequency would depend upon effects on human health and the environment.

We're also looking at expiry dates for certain types of approval, as well as internal auditing and the use of third-party reviews.

By April 2002, we will have media-specific protocols for updating certificates. For example, under the new drinking water protection regulation, approvals for municipal water treatment plants will now be consolidated into a single-site document that we will review and renew every three years.

Another example is our implementation of a comprehensive, site-wide air approvals program. We already have three pilot projects in place at GM, Cooper-Standard Automotive and Rockwell Automation. A protocol for documenting compliance with site-wide air standards was first developed in 1998. Approximately 100 consolidated air approvals were issued in 2000. As of March 1, 2001, any facility applying for a new or amended approval where a contaminant reaches one quarter of its health-based standard or half of its non-health-based standard will be required to consolidate all existing approvals.

A final example is the implementation of a pilot program to promote comprehensive, site-wide approvals and consolidated certificates for waste water. As of this month, any application for a sewage or sewage treatment facility that meets a set of predetermined criteria requires a comprehensive, site-wide certificate of approval.

I should mention here that our integrated divisional system, or IDS, is crucial to our improved system for updating certificates of approval. The IDS is a consolidated database for our operations division, including data on instruments, incidents, inspections, investigation and prosecutions. The first phase of the IDS, which deals with the certificate of approval process, went on-line in October 1999.

Moving on to inspection coverage, the auditor recommends that the ministry explore options and develop procedures for significantly increasing this coverage. We are placing a high priority on increasing our compliance inspection and enforcement activities while maintaining regular baseline inspections.

One of the keys to our enhanced compliance strategy is our environmental SWAT team. The SWAT team has 65 staff, including 30 inspectors. It focuses on problematic companies in targeted sectors of concern. This approach will not only result in a significant increase in the number of companies inspected, but it will also raise the overall level of compliance by Ontario sectors and companies.

The full complement of inspection staff has been hired and the initial three-week training has been completed.

The SWAT team has been conducting sector-based inspections since late fall 2000. To date, more than 70 inspections of hazardous and solid waste haulers, as well as electroplating and metal-plating operations, have been conducted. This has led to 29 ministry-issued field orders.

When in full operation, the environmental SWAT team is expected to carry out more than 1,000 strategically targeted inspections each year.

Our drinking water protection regulation has given impetus to the hiring of 25 new staff to inspect municipal water treatment plants to ensure that all facilities are meeting the requirements designed to protect human health and the environment.

In December 2000, we completed the first round of annual municipal water treatment plant inspections, involving all 659 facilities. This work uncovered deficiencies at 367 plants. We issued 311 orders to take action to assure plants meet our requirements.

The ministry is also reviewing options for enhancing baseline inspections with new technology supports. One area where we're moving ahead is investment in advanced computing and Web-based technologies to increase the productivity and efficiency of our inspections staff.

The ministry's commitment to tough enforcement is reflected in the total number of charges laid, convictions and fines issued in 1999 and 2000. The number of charges we issued increased by 51% in 1999 over 1998

levels. There was a 48% increase between 1999 and 2000. Convictions rose by 48% in 1999 and an additional 26% in 2000. As well, there was a 412% increase in the number of orders issued in 2000; 307 orders were issued in 1999, while 1,265 were issued last year.

The auditor calls on the ministry to improve inspections by better management of information, as well as by ensuring that inspections are consistently planned and conducted.

I should note that the review of the current inspections cycle is an important part of our annual work-planning exercise. It helps us set inspection priorities for the upcoming year.

The environmental SWAT team is adding a strong, strategic component to this work. Together with regional staff, the environmental SWAT team has identified and focused its inspections on high-risk sectors and facilities. This planning led to the 70 inspections I referred to a few moments ago: 30 for hazardous and solid waste haulers and 40 for metal- and electroplating facilities.

To ensure adequate record-keeping and reporting, the ministry has implemented the first of its inspection databases: the interim inspection system for water treatment facilities. This system is part of the ministry's e.NVIRO-NET information management strategy. It allows the ministry to track the progress of inspections, to record findings and to follow up on deficiencies, as well as to generate inspection reports. We are developing comparable systems for all facilities inspected by ministry staff.

Resolving violations complements inspections in our comprehensive compliance strategy. In this regard, the auditor has made recommendations to make our enforcement actions more timely and effective.

The ministry is making significant changes in the way we respond to violations. The recent program effectiveness review of our inspection program identified the need to clarify and reinforce the use of mandatory compliance measures.

In March 2000, field staff were directed to pursue more aggressive use of mandatory abatement actions. This includes field orders specifying actions and completion dates. Between 1999 and 2000, there was a 412% increase in the number of orders issued. Since March 2000, the number of orders issued per month has increased from 20 to 70.

To give further force to our compliance strategy, An Act to strengthen environmental protection and enforcement was passed in December 1998. This legislation gave the ministry enhanced enforcement powers, such as higher fines, greater ability to secure scenes where environmental offences have been committed and authority to use seized property against unpaid fines. All ministry investigators and abatement officers have now been trained in the use of these new enforcement tools.

In November 2000, the Toughest Environmental Penalties Act was passed, increasing fines and jail terms, as well as our ability to deter environmental offenders.

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To ensure appropriate action on violations and more timely follow-up, we use a monthly abatement enforcement activity report. It is produced by our investigations and enforcement branch. The report will serve as an indicator of the percentage of cases being closed expeditiously. A report for the first quarter of 2001 will be prepared in April 2001, based on this abatement/enforcement activity report.

I've just outlined a number of specific actions the ministry has undertaken or will undertake to address the concerns raised by the auditor. We recognize that more needs to be done and that we need to continuously improve the way we do our job, not just in the operations division but throughout the ministry.

With this in mind, the government asked Val Gibbons, a respected management consultant, to examine the way the Ministry of the Environment carries out its work. Ms Gibbons has presented us with a report that outlines the strategic shifts that are necessary to ensure that Ontario is at the forefront of environmental jurisdictions. We are carefully reviewing the Gibbons report to see how we can translate its recommendations into improved environmental protection for Ontario.

I'd like to thank the members of the standing committee for this opportunity to talk about how the Ministry of the Environment has responded to the operations division provincial audit. My staff are happy to answer questions you may have regarding the topics I have just discussed or any other matters related to the recommendations of the Provincial Auditor's report.

The Chair: Thank you very much. We now have about 25 minutes for each caucus, and I'll start with the official opposition.

Mr James J. Bradley (St Catharines): Is all that time to be used at the same time?

The Chair: Whatever you wish.

Mr Bart Maves (Niagara Falls): How many minutes?

The Chair: Twenty-five.

Mr Bradley: Some of the first questions may be general. When the new government took office, it was said by ministry staff that they were told in the regional offices and elsewhere to be business-friendly. Have you rescinded the suggestion that they be business-friendly?

Mr Carl Griffith: I don't recall that particular direction being given. If I could interpret that as, are the field staff to act in a very professional and courteous manner as they are doing their duty, yes, we try to do that. But our job is to go out and do an inspection, and if we find an issue we deal with it in the appropriate manner.

Mr Bradley: The interpretation of some ministry employees was that they were not—to put it in pretty common terms—to hassle polluters but rather to try to cajole them into complying, to seek their co-operation in compliance as opposed to ordering them to comply. That would have been the interpretation of some of the employees in the Ministry of the Environment. Naturally I won't name names, because I don't want the reprisals

against them that I know happen. Regardless of whether your ministry officials say they happen or not, I know those reprisals do happen.

So your suggestion would be that, in fact, that would be an inaccurate interpretation?

Mr Griffith: We do have quite a range of approaches and tools, and we do have compliance assistance approaches where we try to ensure that the environmental requirements are met, and that may be done through negotiation, through a more voluntary approach. We also have more formal and more rigorous mandatory approaches and tools that are available to the staff to apply where they feel it's most appropriate to use different approaches to get compliance.

Mr Bradley: When one looks at the speech from the throne—I don't have it in front of me at this time—and the section that deals with the environment, one could interpret that as saying the government is still on this bent of trying to be one happy family: "Let's seek co-operation with polluters, with those we regulate, as opposed to confrontation." Co-operation seems to be sought instead of confrontation, and rather than constant prosecution and constant investigation, the ministry endeavours to get people to comply through their own volition. Would it be fair to say that could be an interpretation of what we find in the speech from the throne?

Mr Griffith: I'd like, if I may, to pass that question to Bob Breeze, the associate deputy minister.

Mr Bob Breeze: I think what the speech from the throne was referring to is certainly maintaining strong enforcement presence and maintaining the regulations. The research of the Val Gibbons report, in effect, spoke to that, spoke to the need to maintain that strong visibility and credible presence out there. It talked in no way of backing away from that.

What the speech from the throne and the Val Gibbons report speak to is, how do we go beyond that? How do we begin to address the environmental issues out there that cannot be effectively addressed using the traditional command and control? How can we bring tools to the table that will take those minimum standards and get industry to move beyond those minimum standards toward continuous improvement, better end results?

I was part of the Val Gibbons team, and what we found was a striking change going on out there in best-practice jurisdictions. They're bringing a whole range of new tools to the table. The speech from the throne was speaking to all those new tools that we would bring forward.

Compliance assistance: jurisdictions—and the United States EPA are certainly leaders here—recognizing that a lot of small industries don't even know there's a regulation out there or they don't speak English. They need better assistance. There are 1-800 numbers being set up for each of the sectors, whether it's dry cleaning or printing, where a company can phone and can speak to people who can get them plain-language regulations, people who know the language of dry cleaning so they can speak one-to-one so that the dry cleaner knows

there's a regulation, knows how to comply, knows the impacts of the chemicals and knows the technologies that can solve those problems, and that helps them get through to compliance.

It never speaks to backing away on enforcing it, at the end of the day, if they don't comply, because you certainly would go in and enforce it. But providing those kinds of new tools—economic instruments are another example—a much greater reliance on tools that are specifically tailored to the problem at hand but, just to repeat, never backing away from the regulations that are in there and never backing away from the visibility of the inspectors.

Mr Bradley: In practice rather than in theory, is the investigation and enforcement activity of the Ministry of the Environment operating totally and completely without political interference?

Mr Griffith: Yes. The investigations are carried out completely independently.

Mr Bradley: What was the reaction of the ministry when you were involved in the middle of a prosecution—a waste management prosecution of some kind, I think—and a letter came from the co-chair of the Red Tape Commission suggesting that the matter not be proceeded with because the government was going to change the regulation anyway. What was the reaction of the ministry then? How would you deal with a letter of that kind coming forward? I don't know whether the letter went to the court or to the ministry; I can't recall. The chair of the Red Tape Commission carries a lot of weight, because the Red Tape Commission at that time was looking at getting rid of some regulations or modifying some regulations.

Mr Griffith: Is that a hypothetical situation?

Mr Bradley: No, it happened.

Mr Griffith: I'm not familiar with that particular incident, but again I would say that investigations are carried out on the merits of the particular case and the evidence that is discovered, and then through the legal proceeding within the enforcement branch and the interaction with our legal services branch.

Mr Bradley: There were two activities of government going on at the same time, one conflicting with another. The co-chair of the commission, whose mandate it was to get rid of certain regulations or to modify them, saw his mandate as suggesting that the Ministry of the Environment not proceed with prosecution if the law was going to change. A silly example would be that we're not going to have to stop for red lights next week, so we're not going to prosecute this week, because next week you might remove the law on the prosecution of red lights. This seemed to be a similar situation. It was not a catastrophe, but it was nevertheless a prosecution that was ongoing against somebody in violation of a waste management problem. I think you have a note that may provide you with some answer.

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Mr Griffith: Actually, what I was going to do was ask, if I may, Chair—the director of the investigations and enforcement branch could answer that question.

The Chair: Come forward, please, sir. Could you identify yourself, please, for the purpose of Hansard.

Mr Wilf Ng: My name is Wilf Ng. I'm the director of the investigations and enforcement branch. Thank you, committee Chair.

I would like to pick up on what Mr Griffith talked about, the investigation process. The process is independent of any political and external influences. The decision as to whether or not charges should be laid is based on the informed judgment of the investigators. Whether or not the charges should proceed would be at the prosecutorial discretion of the legal counsel. So the process is totally independent and each case would proceed on its own merit. It's not subject to any political interferences or external influences. At the end of the day, the legal counsel would have to decide whether the case would meet the charge-screening criteria before they move it forward. So we do have procedures in place to guide our investigators and legal counsel as to how they proceed on civil charges.

Mr Bradley: My supplementary question to that involves the conflicting branches, if you will, of government, one being the Red Tape Commission, which I have a lot of problems with. As I see it, and it's a subjective view, the enemy of the Ministry of the Environment is the Red Tape Commission. How did your ministry view the Red Tape Commission, at least one of the co-chairs of the Red Tape Commission, interfering in one of the ongoing prosecutions or court cases? You must recall that, I would think.

Mr Ng: No, I don't recall that incident. But I want to reiterate that the branch process is an independent one, and we're not subject to any external or political influences. At the end of the day, whether the charges would proceed or not would have to stand the test of the day.

Mr Bradley: Thank you very much, sir. I'm going to shift gears, to your water treatment blitz once there was a major problem. In other words, Walkerton occurred and you suddenly decided to go back to some significant and frequent inspections of the water treatment plants. How many sewage treatment plants were inspected while you took every breathing body you could find to inspect the water treatment plants? How many sewage treatment plants were inspected during that period of time?

Mr Griffith: I haven't memorized the work plan for last year, and the number. We are typically on about a one-in-four cycle, which means that at least once every four years all the sewage treatment plants would be inspected. What I can do is get back to the member with the actual number that were inspected last year.

Mr Bradley: Would it be safe to say that during that period of time, when you were having to find people to do the inspection of the water treatment plants, it's likely

that sewage treatment plants, at the very least, were a distinct second or third priority for inspection?

Mr Griffith: I can indicate that we adhered pretty much to the work plan that had been developed, and while certain extra resources were put on to the inspection of the water treatment facilities, other inspections carried on.

Mr Bradley: Where did you get the staff to do the inspection of the water treatment plants when the specialized team for this purpose had in effect been dismantled? In any event, even if you had that team in place, with the so-called blitz that took place it would have been impossible for them to do it. So where did you get the staff to do that? Some may be outside the ministry, but if you got them from the ministry, who did the job they were doing before? If you took somebody out of a regional office or out of another job to do the inspection, who was doing their job while the inspection was taking place?

Mr Griffith: The inspectors who carried out the water treatment inspections—it was a combination of using redeployment of some resources across the division, and we also availed ourselves of individuals who had retired who were qualified inspectors. We brought them back on a short-term basis to assist with that inspection.

Mr Bradley: How many of those people would have been hired only on, as you referred to it, a short-term basis? A percentage. It's unfair to ask you for precise numbers.

Mr Griffith: I'm sorry, I don't have those numbers with me but, again, we can provide that information.

Ms Dana Richardson: My name is Dana Richardson. I'm the ADM of the corporate management division. Over this past year we actually did acquire in-year additional resources to assist in Operation Clean Water and also for our SWAT team. In total, we had approval for an additional 142 staff over the year and an additional \$29 million in our budget in-year over the past year. We have now fully staffed up our SWAT team. We have also managed to hire additional inspectors and other functions that help support the inspection function in the operations division to support Operation Clean Water as well.

Mr Bradley: There was a cabinet document that was leaked that my friend from Rosedale—

Ms Marilyn Churley (Toronto-Danforth): It's Toronto-Danforth now.

Mr Bradley: —sorry, from Toronto-Danforth always says, “leaked to the NDP,” so I'll say, “leaked to the NDP,” because she would correct me—shared with the media and the other opposition parties that suggested you would need in excess of 500 staff to appropriately deal with environmental problems in the province. You chose instead what I would consider to be a public relations exercise—I'm not saying it's not without some merit; don't get me wrong—and that's this SWAT team, because you put them into uniforms. “Call up CFTO and they'll be down with their cameras. The Sun will be there to take a picture,” and it'll appear as though something is happening, and indeed something may be happening.

Why didn't you select to put in place the in excess of 500 staff that the cabinet document made reference to as being necessary to do a half-decent job of dealing with environmental problems in the province?

Mr Griffith: Let me answer and then I will call upon John Stager, the director of the SWAT team. SWAT is certainly a very unique entity to Canada, and I believe North America, in terms of its staff who are fully dedicated to inspections and enforcement. We are looking at using the best technology and better information management tools. It is very much an innovative and experimental approach, and we are looking to see what the results of this approach are. We're very confident in its ability to get the results we want, but with the permission of the Chair, if I could have the director of the SWAT team.

The Chair: Sure.

Mr John Stager: My name is John Stager. I'm the director of the environmental SWAT team. As you will recall, the environmental SWAT team is really part of the Blueprint commitment to get tough on polluters. In terms of our specific mandate, we have a very strong enforcement mandate within the ministry as part of the overall enforcement mandate.

But specific to the environmental SWAT team, we are there specifically to deal with problem sectors and problem polluters which, to me, is a very strong mandate. It's certainly not conducting inspections of all companies and in all sectors. It is a very strategy-oriented approach to doing inspection work. We will take the time and effort, and we have taken the time and effort, to select the sectors and the polluters within sectors where we feel there are either real or potential problems that need to be addressed.

The way we approach the work of the environmental SWAT team is to focus on problems. We talk about “flagrant” and “repeat” violators. That is very much a focus of the environmental SWAT team. We are there to try and catch the people who are trying to take shortcuts. If they are not willing to play by the rules environmentally, those are the kinds of groups and individuals we are taking a very strong approach to with the mandate we have.

Mr Bradley: People involved in enforcement as opposed to people involved in cost-cutting—I understand a government may choose cost-cutting as a priority, and that's fine. I put that on the table. But people involved in enforcement will often say it's the day-to-day, non-glamorous, no-photo, let's say tough slogging in regional and district offices and various divisions of the ministry, that it's having those staff, an intensive number and an intensive investigation going on that is really effective, and that a SWAT team, while as I say it's a great public relations exercise and also—don't get me wrong—may do some good work, in fact in the long run what is more effective is to have staff in your regional offices, in your district offices across the province, do their investigations and enforcement on a day-to-day basis. They may not have the photographer there, they may not have special

uniforms, but they do the job and find the polluters and solve problems.

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Mr Stager: If I could define our mandate a bit more in response to the question, we are certainly not looking at our role as being separate from the work of the districts. We work together very much as a team in the way we deliver on our mandate. However, having said that, we have a very specific role within that overall mandate. Our role is to look very specifically at problem areas, problem sectors, problem companies, problem individuals. That is a very important role in terms of an enforcement mandate within the ministry, to take that kind of approach to doing our business.

We will work very closely with the districts in identifying these areas of problem sector/problem polluters, but we also identify the fact that they have a great deal of responsibility of their own. We will work with them in identifying problem areas. We will go out and we will do the inspection work, and in fact we have been doing a great deal of inspection work to date out in the field, conducting inspections in the two areas our deputy had mentioned, the metal-plating sector and the waste haulers, which to us are very significant problem areas that need to be addressed.

Mr Bradley: I think most would people agree they are significant problems, among other problems that are out there.

One of the ways the ministry can improve, because ministries are always striving to improve their performance within the mandate provided by government, within the fiscal constraints put on the ministry by government and within the policies of the government, one of the tools that would be helpful to you, I think, if you look at it in a positive sense, and I'm sure you do, will be the Walkerton inquiry testimony and information that has come from the Walkerton inquiry, with we hope some good recommendations that government will be able to implement. I think that will be very positive when that comes out.

However, for the inquiry to know what's going on, people have to be able to appear without intimidation. I see Steve Clancy, who is the president of OPSEU Local 308, representing 11 of 14 workers in the Peterborough district office, contends that the environment ministry employees who were planning to voice their concerns to a meeting of the Walkerton inquiry changed their minds because of intimidation by a manager.

If the information is to be available to the inquiry, and I think the inquiry can be a positive step—despite the fact that the Attorney General got up and passed this bill and said everything was going to be fine and nobody would be intimidated, we have an accusation of intimidation. How are you dealing with individual managers in terms of your instructions to them as it relates to people under them providing testimony to the Walkerton inquiry?

Ms Richardson: Mr Chair, I'd like to answer that question.

Amendments were made to the Public Inquiries Act over the past year that specifically provide protection to individuals who are testifying or are asked to participate in an inquiry. We are fully compliant with the provisions of that act and we will continue to be so.

Mr Bradley: Have you investigated this specific complaint? This is an allegation; I understand that. I don't work on the basis of accepting one or the other. This is a very serious allegation that's been made. Have you investigated this specific case, the reason being not only this specific case, but others will look and say, "Well, if there's a manager somewhere who's intimidating some employee, by gosh, in our area maybe we'd better be a bit more mute in our criticism."

Ms Richardson: I cannot speak to the specifics of that particular incident, but we do take these things very seriously and we are endeavouring to make sure that every manager in every office complies fully with the Public Inquiries Act.

Mr Bradley: There is great concern, as you know, among employees and among everybody except a government—I don't even want to make it partisan and say "the government"—that people are going to be free to speak. I don't know how you ever really make them entirely free to speak, because everybody knows what they said and people can be dealt with subtly who are too critical. That's why I was interested in whether you were investigating this case. I don't expect you're necessarily going to give me the results of that at this moment. But it does scare me, because I think those ministry officials—put aside the fact it might embarrass the government. What's going to be useful ultimately is that it's going to help you and us as a Legislature to have the ministry do an even better job than it does today.

Ms Richardson: We are participating fully in the inquiry and encouraging our staff to come forward to testify at the inquiry as well.

The Chair: You've got two minutes left, Mr Bradley.

Mr Bradley: Time goes by when you're having a good time, I guess.

Air standards: I've heard it trumpeted you have new air standards, and that's wonderful, wonderful, and there's going to be this monitoring taking place. Are the companies going to be monitoring themselves?

Ms Richardson: I'd like to ask Tony Rockingham to join us.

Mr Tony Rockingham: I'm the director of air policy and climate change. The member has asked a question about the monitoring and reporting regulation that came into effect for the electricity sector in May 2000. It requires companies to monitor and to report publicly on named pollutants, and for the electricity sector there are some 28 pollutants that are named in the regulation. So those companies have to provide reports publicly. Those reports are based on estimates made by the company or measurements made by the company of the emissions from their facilities. The regulation provides guidance on the estimation techniques that are acceptable to government, although the facility's owner or manager can apply

to the Ministry of the Environment for some variation on those estimation techniques if those are more appropriate for the particular circumstances.

Mr Bradley: But it is self-monitoring. You do not do the monitoring. Do you do any checks on the monitoring? You know, how you go in, and with water you can take some samples. Does your ministry routinely do checks on these monitoring—

Mr Rockingham: There will be auditing done of the monitoring information, but I think probably the more important thing is that the information will be put into the public domain so that a variety of people can look at the information. We expect that pressure will lead companies to be even more careful than they have been, for example, when they have been reporting to the federal government under the National Pollutant Release Inventory.

However, I can assure you that the ministry will be doing audits. The regulation requires that the facilities keep records for a period of seven years, which will allow the ministry officials to basically recreate the estimations that have been supplied to the public domain. The facilities must keep on record the data they used in providing the estimates, the emission rates or the calculations that were done, and the assumptions that were behind those. So yes, there will be auditing of the information provided, and as well, that will be on a random basis but also could be issues-driven. We would expect that if two companies with similar operations report very different emission levels, then we would look into that to see what the basis for that difference is.

Mr Bradley: An incinerator, for instance.

The Chair: We'll have to move on now at this stage. Ms Churley.

Ms Churley: Thank you for joining us this morning. I'm sure you're all well aware that I'm very critical of what's been happening in the Ministry of the Environment—I've made no secret of that and I won't today—in terms of the cuts. I'm certainly very aware that staff morale is quite low. Probably people in opposition hear more about that than those in government, I don't know, but they say they don't hear it. My questions are going to be around some of the cuts that have happened and the impact.

I wanted, first of all, to go back to where in your presentation you mentioned that the charges laid and the convictions and orders issued—you gave us numbers for 1999. I can tell you that the enforcement statistics in charges laid went from 2,158 in 1992 to only 758 in 1996. What I'd like you to do is paint for me a picture; tell me, going back to 1995, the charges laid, convictions and orders, and then right through 1996, 1997, 1998. They did start to go up again in 1999, but could you give me those figures for 1995, 1996, 1997 and 1998?

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Mr Ng: I cannot make any specific comment on what happened in 1995.

Ms Churley: You don't have the numbers with you?

Mr Ng: I do have the numbers with me, but I have no specific information as to how the numbers decreased in 1995 and then started to rise again in 1998.

Ms Churley: Can you give me the numbers for 1995?

Mr Ng: For the number of charges laid?

Ms Churley: Yes.

Mr Ng: It was 1,045. This was the total number of charges laid.

Ms Churley: And convictions?

Mr Ng: The total number of convictions was 504.

Ms Churley: That was for 1995?

Mr Ng: That was in 1995.

Ms Churley: And orders issued?

Mr Ng: There is no information on orders in that table.

Ms Churley: What about 1996?

Mr Ng: For the total number of charges?

Ms Churley: Yes.

Mr Ng: That number was 758.

Ms Churley: Convictions?

Mr Ng: There were 366.

Ms Churley: Orders?

Mr Ng: Again, the order information was not included in this table.

Ms Churley: I see. And 1997?

Mr Ng: The total number of charges was 951.

Ms Churley: Convictions?

Mr Ng: Four hundred and eighteen.

Ms Churley: And again, orders are not included in your data?

Mr Ng: That is correct.

Ms Churley: OK. And 1998?

Mr Ng: It was 805 for the number of charges and 414 for the number of convictions.

Ms Churley: And again, no orders?

Mr Ng: And no orders.

Ms Churley: That's helpful. Thank you very much.

Have you been asked to do a cut across the board again in the ministry? I suppose you can't comment on what's going to be in the budget before the budget—

Interjection: We cannot.

Ms Churley: Would you tell me whether you think you could function with another cut to the ministry? Would it be of great concern to you if you have to make another cut?

Ms Rush: I think that's a hypothetical question.

Ms Churley: OK. I guess we'll be talking about that in May.

The reason I am asking these questions is that, of course, I'm very concerned, as I'm sure you are as well, about the impacts other cuts would have. Despite the SWAT team, we are all well aware of the massive cuts that have been made in each division and the impact that has had. For instance, I have a document here from May 1996. The document says that just at that point—the savings plan—the ministry would eliminate 752 positions, 279 of them in the operation division. It talks about the number of changes that will make, and says things like, "These measures will have an obvious impact on

our work plan,” and goes on to talk about some of the things your ministry would no longer be able to do that you used to do. This is something that was raised; it’s not new to you. Not just leaked documents but internal ministry documents show that every time there’s been a cut, not surprisingly, you had to make some corresponding decisions within the ministry on what you weren’t going to do.

What I’m asking you is, have some of the things that have been cut due to cuts in staff been brought back?

Ms Richardson: I obviously can’t comment on that particular document, not having seen it, and if it’s something before the inquiry, I can’t comment on it. But what I can comment on—

Ms Churley: It’s not before the inquiry. This is a public document that we’ve talked about before.

Ms Richardson: What I certainly can comment on is that over the past decade there have been many changes to the Ministry of the Environment as far as resourcing and staffing are concerned, and we have to examine in some detail what the sources of those changes actually were. For example, when OCWA was created, 980 positions moved outside the ministry but over to the Ontario Clean Water Agency. That shows up as a decrease in our staffing, but actually they are in another arm of government, an agency.

Ms Churley: If I may interrupt, that decrease showed when we were in government, not post-1995.

Ms Richardson: There are a number of other similar kinds of shifts that are organizational shifts. For example, when the Ministry of Energy joined with the Ministry of the Environment, that showed as an increase, and then it was split from the Ministry of the Environment several years later. Once again, that showed a change in the number of staff and the resources in the ministry.

Ms Churley: So you’re saying these cuts didn’t happen?

Ms Richardson: What I’m saying is that there are a number of different times in the history of the ministry when there have been cuts. In 1994-95, 1995-96 and 1996-97, there were cuts to the ministry. The focus of those cuts was initially to focus on our administrative and technical staff. The core business of the ministry, the front-line inspections in the ministry, were the focus of the least amount of downsizing and cuts at that time. That is certainly something that has been on the public record, as in our previous estimates discussion.

Ms Churley: First of all, just for the record, it’s quite correct that when OCWA was created—I remember the governing party used it at the time to attack the NDP by saying we fired almost 1,000 people when in fact you’re quite correct, and the record shows, that those people were transferred to dealing exclusively with water. That shows up in the records prior to 1995. In 1994, under the NDP, I believe 100 positions not were refilled. But again, for the record, those positions built up in the NDP were more than ever before in the history. I just want to say for the record that it doesn’t make sense to compare the numbers that existed in the ministry under the NDP

government with the numbers we have now. The record speaks for itself on that. The reason I ask these questions is that I guess I’m trying to help you here. I think we need more staff, and all the records show that.

I want to ask you some specific questions, for instance—and you referred to this earlier—about a draft cabinet submission, which has already been referred to, that said there are 111 industrial plants that your ministry realized were out of compliance, most of them for more than two years, and that they are polluting waterways that are the source of drinking water for many communities. At that time the draft submission said the ministry was not doing anything about it because it couldn’t. I want to know, is this an example of the kind of problems the auditor identified, and what specific steps have you taken to deal with those 111 industrial sites that are out of compliance?

Ms Richardson: As I mentioned earlier, over the past year we have received approval for increased resources. A large number of those resources were our SWAT team. I’m not sure exactly which industries are flagged in that document, but, as John Stager has mentioned, what we are looking at with the SWAT team is focusing on the major polluters and taking a very tough enforcement approach in dealing with them. So we have obtained resources to do those kinds of things.

Ms Churley: Would you say that all those plants have now been inspected and brought back into compliance?

Ms Richardson: I don’t know that kind of detail.
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Ms Churley: Does anybody have the answer to that question? Can I have a clarification first, as well: the SWAT team, as I recall it, is not doing the water inspections. They’re out there doing more high-profile things. So it’s people you brought in on a short-term contract who are doing the water inspections, I take it. The SWAT team is doing other things.

Mr Griffith: Yes, the SWAT team is doing other things.

Ms Churley: Right. Can I have a further clarification as to how many and who these people are who are actually doing the water inspections?

Mr Griffith: I’m sorry, I don’t have in front of me the exact number of inspectors that are doing it.

Ms Churley: Could I have that information sent to me, how many are doing it and how many are actual temporary workers brought in and who are on staff?

Mr Griffith: Yes.

Interjection.

Ms Churley: OK. Sorry to interrupt. So just in terms of these 111 industrial plants that are out of compliance.

Ms Richardson: I actually have a chart with some of that information that Mr Griffith doesn’t have. In our efforts this year to get increased resources and staffing, we did obtain approval for 68 new staff in what we’re calling Operation Clean Water.

Ms Churley: Sixty-eight, OK.

Ms Richardson: Fifty-four of those staff were for inspection and enforcement activities, six for certificates

of approval, three for certification and licensing, and five for project management coordination.

Ms Churley: So are they permanent now?

Ms Richardson: No, these are not permanent staff. We have about 18 months' worth of funding for this project.

Ms Churley: OK. I wanted to come to the Gibbons report, because I have some concerns about the direction this report may be taking us. I guess I wanted to ask a few questions about that. One of the things that I noticed in the report is that it doesn't talk—well, it does mention once, I believe, that significant money would be involved in making such a transition. Have you taken that into account, significant resources?

Mr Breeze: I was part of the Gibbons team. We didn't quantify how many resources would be required. We recognized and identified in the report that additional resources would be needed, but we didn't actually provide a quantification.

Ms Churley: Would you not advise the government, though, that unless significant resources were provided, to not even go down this road?

Mr Breeze: The report says very clearly that additional resources are required, but it didn't quantify them.

Ms Churley: I know you were involved in writing this report. It seems to me that it's an all-out attack on command and control regulation. The starting part of this report is that things are bad and are not working, but there's no mention in this report why we are in the state that we are in now, that is, the gutting of the MOE and the direction to not enforce environmental laws. The premise of the report is, it seems to me, "Command and control bad; we've got to start looking at other directions."

My concern with this, of course, is that we could end up, with the way it could be cherry-picked and the direction that this government seems to be going, like a TSSA approach. Basically you have almost a privatized ministry that's overseeing the private sector and everybody else looking after the environment. There are some real dangers in this report if you have the kind of government in control that is actually trying to get out of the business.

I want to ask you a question: why? On what did you base your "Command and control is bad and it's time to move on"? What did you base that on?

Mr Breeze: The report and all of our analysis showed that command and control as a base is absolutely essential; that enforcement that's seen, enforcement that's credible, enforcement that's fast is an absolutely essential part of any program. What the report spoke to is that, in and of itself, it's insufficient. We need to go beyond to get to continuous improvement. We can't wait until the next standard for the next chemical is developed. We need to get companies working before standards are developed to move into continuous improvement, to continually decrease the concentrations of contaminants that are out there.

The report is absolutely clear that command and control enforcement is a base and it has to stay there. Everything is about moving beyond that base, not eroding the base.

Ms Churley: The report, and you were involved in it, does talk about moving beyond command and control quite frequently. This is the thing that alarms me in it. There is no evidence the command and control regime hasn't worked successfully in the past if you look at things like the pulp and paper cleanup, leaded gasoline, the acid rain cleanup. The thing, again, that alarmed me about this report is that it seemed to just point to all of the things that aren't working and didn't approach the kinds of things around so-called command and control that do work. Let me put it this way: can you supply me with the terms of reference for this? It wasn't included in the study.

Mr Breeze: The report wasn't conducted by the ministry. The report was conducted by an independent team, headed up by Val Gibbons. There are terms of reference for Val's report and they're actually included in the report.

I want to go back, though, to eroding command and control and to repeat, in the report we recognize that command and control does work, that command and control is absolutely essential and that it cannot be eroded, but it was established as a baseline. When we said "beyond," it didn't mean beyond to replace. It meant leave it in place, maintain it as a strong component, but put other things on top of it to push toward continuous improvement. Let's get focused on end results. Let's move beyond single chemical; let's get into multi-chemical. Let's move beyond one medium; let's look at multimedia. Let's move beyond just looking at arbitrary municipal boundaries and let's look at boundaries that make good environmental planning sense. Let's look at watershed management. It is in no way talking about backing off on the enforcement.

Ms Churley: But then in that case we're talking about the same thing, because if that's all you're saying, which is not my reading of the report, this is nothing new. The report was written in such a way that this was a very big discovery, but you would know from working in this field—I note you haven't been there for a long time—that this is a 30-year-old policy discussion that took place in the Robarts-Davis era. It's a similar exercise that took place in the 1960s and 1970s.

It's nothing new. It's like reinventing history, which is also what alarmed me about the report. It seems to imply we've discovered this great new direction to go. In fact, I would say again that my reading of the report—the approach that, for instance, our government was taking, which is the vertical approach as opposed to the horizontal and command and control. The Planning Act would have been a good example of that, a multi-ministry approach to the environment. It isn't just pollution control, which is all this report looks at, but it's across the board. We were in fact going in that direction. The Environmental Assessment Act, which has been gutted,

and other things—we were moving in that direction that supports the premise that you do have the horizontal, but the command and control is a very important part of that.

We were going in that direction. This government took that away. I don't quite understand, then, what the difference is between what was already happening—that was gutted by this government, from what you're saying—to where you're recommending we go.

Mr Breeze: There are some fundamental new shifts out there, and I'll pick one of them: co-operative agreement.

Ms Churley: Oh, you mean volunteerism and self-regulation. You see, that's my concern.

Mr Breeze: A lot of terminology has said "voluntary initiatives," but we called them "co-operative agreements" because a company would enter a co-operative agreement voluntarily, but once it was in, it would be bound by a legally binding and enforceable contract. What would be happening within a co-operative agreement—and this is really new out there; there are only two or three jurisdictions that are doing it—is you provide abroad what some people have called a bubble permit for a facility, you give the company a measure of flexibility, not flexibility on standards—the base standards stay there—but flexibility perhaps on paperwork, flexibility on getting only one certificate of approval for the facility, as opposed to 54 different certificates of approval.

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But we demand something back under co-operative agreements. We demand full transparency to the public—this is new in the report as well—that jurisdictions weren't talking about, that every piece of information, compliance information, reporting information, is out on a Web site and absolutely available. So in a co-operative agreement, what we end up getting back is full transparency and then a step further than that. We ask that you sign on to continuous improvement, that you legally sign this binding contract that you're going to reduce the overall contamination to the environment by 5%, perhaps 10% per year, and it continues and it continues. If a company doesn't live up to those provisions in the co-operative agreement, the co-operative agreement comes undone and they lose the flexibilities they have gained.

When I talk about flexibility—I want to come back at that again—we're talking about paperwork flexibility, easing of the administration constraints. In no way are we talking about easing up on the environment standards. They absolutely have to be there.

The jurisdictions that have done those—Oregon and New Jersey as examples—are pulling companies up so that they're not just looking at the impacts of their singular facilities, but they're being forced into looking at the whole life cycle of products, and that's getting bound into the contract as well, where they have to look at the whole life cycle.

The Vice-Chair (Mr John Cleary): Ms Churley, your time is up. Mr Gill.

Mr Raminder Gill (Bramalea-Gore-Malton-Springdale): Thank you, Mr Chair. I want to go back. I think we touched on a number of charges, a number of convictions from 1995-98. If you have some data, I want to go back to 1991 up to 1995 just for reference purposes before we start the discussion.

Mr Ng: I'm afraid I don't have those numbers with me today, but I can undertake to provide that information to you.

Ms Churley: I've got the numbers here.

Mr Gill: OK. I would like to have them, if you want to table them.

Ms Churley: I don't know if they're in this file, but if I can find them I'd be pleased to share them with you.

Mr Gill: Sure.

Mr Bradley: Always happy to share good news.

Mr Gill: It seems to be saying, while I'm still waiting for that—my friends on the opposite side seem to reflect that—that perhaps more numbers of staff and more money thrown at the system or given to the ministry relate directly to a better quality of air, water, life in Ontario. Any comments on that?

Mr Ng: Thank you, member of the committee. If I may, I'd also like to read into the record our enforcement statistics in 1999 and 2000, because the information that I passed on before stopped in 1998. In 1999, the total number of charges laid was 1,216. The total number of convictions was 611. In the year 2000, the total number of charges laid was 1,796 and the total number of convictions was 770.

That is in keeping with what the deputy had mentioned earlier on in her speech, that our enforcement staff had been on an upward trend in the past two years.

Mr Maves: You're right, Jim. We do like to pass on good news.

Mr Ng: Also, I would like to read into the record that among the fines handed out in 2000 is \$3 million, and in 1999 that was \$1.5 million. So that translates into a 100% increase.

Having said that, I want to get back to the question you raised earlier, as to whether additional resources would enhance our enforcement capability. Resources are one of the many reasons why we can enforce our enforcement capability, but at the same time we need to look at the way to streamline our internal process. We need to look at other ways to deliver our programs, where we can partner with other agencies to get involved in program delivery. So more people would help, but that's not the only reason we would be able to do better. We would need to look at other factors as well.

Mr Gill: Considering that every day we are talking more and more global free trade, regional free trade, NAFTA and FTA and everything else, how do we compare, if we have that measurement, from the environmental point of view: Ontario versus BC, versus other provinces, states, Mexico?

Mr Breeze: Perhaps I can speak from the results of the best-practices review we conducted with Val Gibbons. What we found was an incredibly dedicated and

competent Ministry of the Environment. We found there were clear and strong elements in place that can be built from. We found in the review that there were some areas where we were not leaders. I spoke earlier of co-operative agreements. We've begun to move. We've made some really good steps on co-operative agreements, but there are some real opportunities to use co-operative agreements in a broader way that will pull industry into ongoing, continuous improvement, that will get more end-result focused, less focused on the minutiae of step-by-step telling companies what to do, but ensuring the end results are absolutely there. So the elements are there and the team is there. I think with the Gibbons report we'll be able to, as the minister has said, make MOE into a model ministry.

Mr Gill: But we don't have a quantitative measurement as to where we stand in terms of other jurisdictions? There's no so-called standardized testing?

Mr Breeze: I don't believe there's standardized testing to compare any ministry or agency across different areas. It's just divided up and managed so differently as you look across jurisdictions that to get that kind of measurement would be very difficult.

Mr Gill: I know with the current environmental standards being improved and new systems being applied, some of the existing C of A's may not be current. What are we doing in terms of moving toward making them current? How soon do we expect they'll all be made current?

Mr Michael Williams: My name is Michael Williams. I'm the director of environmental assessment and approvals.

I'd like to respond to that question by telling you that we have already begun our review of the certificates of approval to ensure they're updated. We're doing it on the basis of looking at sectors and priorities. We've made significant progress in the field of drinking water and hazardous waste. We're trying to get them current and accurate and ensure there's good compliance.

I want to tell you that under the drinking water protection regulation, for example, all municipal water treatment plants will be issued a new certificate of approval this year. There are approximately 700 municipalities that are now required to submit engineering reports on the state of their facilities. We will be reviewing each and every one of them. We will be consolidating all of those approvals and issuing new ones. Currently, out of the 700 we have approximately 450 filed that we have under review, and we expect to begin issuing those new updated certificates in the very near future.

I can also tell you that in the area of hazardous waste we have undertaken reviews there. We've completed a review of 137 certificates of approval for hazardous waste sites. They are up to date and in place.

We also have found it extremely beneficial to look at the Provincial Auditor's findings in this area to help us further review the need to update the outstanding historical certificates of approval. We're doing that through other means, such as updating our information

systems. We're continually trying to improve on that. We're also tapping into the benefits of lessons learned from other jurisdictions. In the not-too-distant future, the work we've done in the area of drinking water perhaps will carry forth into some of the other sectors, such as waste, such as the air arena, where we are now looking at having permits or approvals that expire and will be renewed on certain bases; for example, on a three- to 10-year period. We're looking at how we might do that to ensure they will all remain current.

Mr Gill: Do we have any sort of deadline we're working toward when they might be all made current?

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Mr Williams: We have a deadline with respect to the drinking water program. We're going to get them all current and as best we can reach the target date of December 2002. That's the date in the regulation by which all plants must be upgraded. It is possible that in doing some of the upgrades there will be significant capital works that will be required to be undertaken, so it may not physically be possible for every plant that needs an upgrade to have been done by that date, but we expect in that priority sector to have that done in that time frame. As I mentioned, the hazardous waste ones are already done with the 137.

The other time frames we have with respect to the air approvals that are issued are longer. We have all of the historical records we need for the air approvals. I might add that the approvals program has been ongoing since the inception of the Environmental Assessment Act and the Ontario Water Resources Act requirements since 1957, so I'm sure you can appreciate there's a significant number out there.

We are looking at staging the rest of the work because of the volume that's there, and we're going to do it on a risk assessment base such that we'll look at those facilities that have certificates that have the potential to have the greatest impact on human health and on the environment, and we'll be working through them first.

Mr Gill: If I may, my friend has the numbers.

Ms Churley: No, I don't have them here with me. You really want those numbers for this committee, do you?

Mr Gill: I'm quite interested in it because I want to see the trend line. I'm concerned because I don't think, personally speaking, manpower alone is the answer to our woes—

Ms Churley: That's clear.

Mr Bradley: What is?

Mr Gill: —that it's that simple.

Mr Bradley: It's very important.

The Vice-Chair: Could we get the ministry to forward them to committee members?

Ms Churley: To clarify for you, I have with me 1992, where the charges laid were 2,158, and convictions, I believe, were 504. That was in 1992. That's way up even above your 2000 numbers. But I'll try to get the rest for you.

Mr Gill: I think we must keep in mind the efficiencies and the new methodology. It's not always the personnel. It's not always the money you throw at the system that's going to make—I'm more of a practical numbers man. I know how these things work. There's always the efficiency factor you must count.

Ms Churley: So our government was more efficient, then.

Mrs Julia Munro (York North): Thank you very much for giving us the opportunity to hear about what steps the ministry is taking in response to some of these issues.

I'd like to talk a little bit about the question of management from the sense of compliance. The auditor made reference to the fact that the vast majority of companies in Ontario obviously comply with the standards. Do you have any sense of what kind of percentage we're talking about in terms of rates of compliance? I'm just looking at a really ballpark idea here. Is that possible? Would we have any idea?

Ms Rush: We're checking.

Mr Stager: I don't have the numbers overall for the ministry for compliance, but from an environmental SWAT team perspective in the two sectors we've been working in, keeping in mind that again we have a mandate within our group of problem areas, problem sectors, we're typically finding a non-compliance rate in excess of 50% with the companies we're looking at. But you'd have to put that in perspective, understanding that we do a lot of research within our sectors trying to identify a company, for example, or a polluter that we anticipate we will find a problem with. It probably is not representative of the sector, but in terms of the companies and the sectors we're focusing on, because we're looking for problems, typically we found in excess of 50% non-compliance.

Mrs Munro: My point here is the fact that obviously because you're dealing with a very specialized group, you would be looking at a rate that would, just by the very nature of your mandate, be much higher than what you would see in the overall provincial numbers.

Mr Breeze: I'll approach it more broadly and, again, from the perspective of the Managing the Environment report. One of the elements that came out of best-practices jurisdictions was their capacity to effectively marshal all the data, information and knowledge in a way that informed effective decision-making, not just informed effective decision-making of government officials or government but across the province, all stakeholders. We found that transparency of information, that transparency of decision-making, and not in a way that would be difficult for the public to access.

What we found was a real move toward the use of Web sites where all the information was provided on a real-time basis. Anyone could go in and access it and find out how the environment is in their immediate neighbourhood, to ask a really specific question. If you go into some of the leading jurisdictions—and I was astounded by some of them; the US EPA Web site, where you can

go in and click on your area, the neighbourhood where you live, and get very clear indicators of the environmental health, and not described in a way that's so hard the public can't understand but in thermometers, red meaning it's not in great shape and green meaning it is in great shape.

But if the public wants to burrow down, they can. They are provided with software tools where they can actually go in and create their own reports. In a way, we are seeing a shift away from the big, fat state-of-the-environment report that was static, that was two years old and that was really experts speaking at people, and a shift toward people being able to generate their own reports and understand how the environment is actually impacting on them.

To come specifically to your question on compliance, one of the really powerful parts of those Web tools is that you can actually go in there and click and find out which companies are in your area and how many there are. Then you can click on the company and get their certificates of approval. You can get the compliance results for the last three or four years. You can see how they complied. You can see whether the company next door to you is complying or not. That puts the public in a much more powerful position to be able to respond and push local officials, push companies to make that change. When you couple that with the co-operative agreements I talked about earlier—and you tier those co-operative agreements to get more and more public involvement—when you've got the information in the public's hands, when you've got the public at the table making part of the decision, you can pressure companies into making those steps.

What you can put over top of it, and some leading jurisdictions are, is third-party audits. The Provincial Auditor spoke about third-party audits. You put them in place, and not only does the public have that kind of awareness, but they have the third-party audits they can rely on as well, with the MOE inspections and enforcement strongly overseeing all of it. A knowledge management system is absolutely critical to harness all that information and get it out so we can all use it to make better decisions.

Mrs Munro: I guess that's really where my question was going, because it seemed to me that obviously at the end of the day the object here is compliance. If we are looking at the kinds of things you've talked about, clearly the opportunity to sort of marry the new technologies with the base you talked about earlier in terms of the traditional command and control, then I'm going to assume it would be your expectation that by looking at those other jurisdictions, we are moving in the direction where we can expect that kind of increased level.

Mr Breeze: Absolutely. You said the objective is compliance. I would even add to that and say the objective is beyond compliance: continuous improvement. Let's get people on a track where they're continuously improving beyond the standards, so we don't have to wait until the next standard is developed; they're

already in there reducing the concentrations of contaminants across the board—multi-chemical approaches, not chemical by chemical.

Ms Rush: Dana had a comment.

Ms Richardson: In fact, we have started down this path in the ministry in the last year or so. We have new investments in technology to assist us in making more information available to the public. We are taking a much more proactive, Web-based approach, so that that information is much more accessible to the public. We are marrying that with our work-processing kinds of technology, our integrated divisional system. For example, over the past year the public did have much greater access to the air-quality index and the smog alerts. We actually set up an e-mail account for people who wanted to regularly find out what was happening in their area, what was happening to them, and last year during smog season 1,200 subscribers signed up for that service.

We also put up regularly over the past summer and fall the results of our water inspections so that, municipality by municipality, people could actually see the compliance of the inspection of their water treatment plants.

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Those are some examples of the kinds of information we're already starting to make available. As we improve our system, which we're calling e.NVIRO-NET, we are actually going to have as the first principle that it's public information that we want to share much more broadly, not only for our own decision-making purposes, but also to have that broader deterrent effect and the continuous improvement effect that is mentioned specifically in Val Gibbons's report.

Mrs Munro: Is it premature to ask whether you can see some kind of results in terms of—you mentioned the number of people who signed up to get reports throughout the smog season. I think—and this is more of an intuitive sense—that the greater the opportunity that public awareness is increased, the less chance, if you want, or risk someone is going to take in non-compliance. I wonder if this is a premature question to ask, or have you seen it in other jurisdictions?

Mr Breeze: Yes, you begin to see it in other jurisdictions, where it isn't just a question of something coming into a government file; it's something that, when it's produced, is out in everyone's hands, and everyone can see whether compliance is being achieved or not being achieved—ultimate transparency.

What it will allow for as well—and it's one of the shifts we talked about in the Val Gibbons report—is moving away from government doing it all and making sure that everyone is involved in the solution. It allows getting information in local hands. It allows local people to be part of the decision-making. Earlier, I mentioned the co-operative agreements. The ultimate extension of a co-operative agreement is that if you gave additional flexibility to companies, you could require that the public not only have the information but that they have to be at the table when the decision is made. So they're part and

parcel of the decision, as opposed to being told what has happened afterwards.

Mrs Munro: Does that raise issues, in terms of the public, with regard to risk management? Is that going to be part of that kind of discussion?

Mr Breeze: Absolutely. There's one section in the report where we deal with broad-based risk analysis. What we found in best-practice jurisdictions is that it's not just communication in risk analysis, it's involvement. And it isn't involvement at the end, when you've developed the standards and say, "Do you like it?" It's involvement right up front about what approach we need to take as we develop this standard in full consultation as you go all the way through the process, so that when you get to the end of the day, the public and local municipalities have been involved and accept the ultimate results.

Mrs Munro: Thank you.

The Vice-Chair: Anyone else on the government side?

Mr Ted Arnott (Waterloo-Wellington): I'm looking at, I guess, the executive summary of Managing the Environment, the Val Gibbons report. One of the key recommendations is the whole idea of ensuring we have a government-wide approach to protecting the environment and not just one ministry vocally trying to do the whole thing.

What kinds of practical steps do we need to take to make that happen? I know we have a cabinet committee chaired by the Minister of the Environment. In the past we've had, I guess, interministerial committees that have tried to encourage that kind of approach. But there must be other ways you have in mind—Mr Breeze, you're smiling.

Mr Breeze: Certainly, in writing the report, we thought an environment committee would be a critical part of that, making sure that in activities across the province that are coming through, that in fact environmental issues are addressed. So any activity could be called through the environment committee to make sure, as I said, that environmental issues are being addressed.

The appointment of my position as the new associate deputy minister, that position did not exist before. My responsibility isn't just to work with the Ministry of the Environment. It's to work across all of the ministries, and I've already begun that. I've met with several assistant deputy ministers in other ministries in talking about how we are going to work together across all government to make sure there's a consistent approach, that environment is considered in all the decision-making.

Mr Maves: It quite often happens actually across many of our ministries. The auditor has been doing his reports for years, and he did some reports on the Ministry of the Environment in the late 1980s, the early 1990s and the mid-1990s. As happens across all ministries, when they get a report by the Provincial Auditor and receive recommendations from the Provincial Auditor, most often those ministries thank the auditor for his report and either say, "We disagree with this recommendation and

we're not going to implement the change he wants," and they have a specific reason why, or they take the recommendation to heart and commit to adopting some changes in order to address the recommendation made by the auditor.

The auditor quite often, a year or two or three years later, will look back at some of these ministries, or he'll go back and do another audit and find out, in effect, that none of the changes were actually made at the end of the day.

I noticed in the report you've made several commitments in several areas to indeed take his recommendations to heart and committed to adopting changes. What I'm curious about is—because I don't want to come back in two years and find a report from the auditor that says, "They didn't in fact adopt the changes they were going to"—do you have timelines in mind or in place when you're going to have some of these changes implemented by?

Ms Richardson: We certainly have taken these recommendations into our annual planning process and, depending on the various recommendations, we have different timelines for the different types of projects underway. For example, Michael Williams mentioned some very specific deadlines for actually updating the Cs of A, which was one of the comments made by the Provincial Auditor. We have actually mapped out a timeline for each individual one. It's not the same timeline for each one.

Mr Maves: I understand that.

The Vice-Chair: Mr Maves, your time is up.

Mr Maves: That's it?

The Vice-Chair: Your time's up.

Mr Erik Peters: I hate to infringe on the time of the members.

The Vice-Chair: No, that's what they said. The time is up for each party.

Mr Maves: Is the auditor going to complete the comments there?

Mr Peters: If I may, the purpose of the hearing is for the committee to write a report in the end. It's just some information that might be helpful in providing the researcher with additional information.

There was a lot of discussion on the new information that is available through the Web site and other compliance information. I was wondering what tools would be available to outside-the-government stakeholders to actually act on the information. For example, in a case of non-compliance, what happens if somebody finds any information that there's non-compliance? That was number one.

The other one was, in a tangible way, if there's any action taking place on the deposits that companies are supposed to make where we identified about \$90 million outstanding. The other area was in 1998, where \$10 million in fines had been outstanding since 1985. I was wondering if you could elaborate on that possibly.

Ms Rush: Perhaps Michael could answer the financial assurance question first.

Mr Williams: The question I will address is in the matter concerning financial assurance which the auditor has raised.

I want to begin by saying that the financial assurance provisions, just so all the members are aware, are very important provisions that are attached to the certificates of approval. They're designed to provide an avenue for funding for future cleanup and long-term care of facilities, such as landfill and contaminated sites. It's for those reasons, where we have those kinds of situations, that it is very important that financial assurance be in place.

The ministry has worked and has an action plan in place to deal with the issue of financial assurance that the auditor has raised. His findings were very helpful to us. We've already implemented the recommendations that are contained in that. We have improved the administrative procedures to ensure that the financial assurance requirements are met. We've reviewed our existing financial assurance policy, which includes a review and update of appropriate forms of security, and we put in place a plan to collect all of the outstanding monies to which the auditor referred a moment ago. We'll be doing that through our improved data management system so that we'll be able to flag exactly what financial assurance is due, what the dates are and what certificates it contains.

But let me just directly answer what the progress is to date on this and give you a timeline for completion.

In the report, there were several hundred certificates of approval that were examined and thought to be having an outstanding amount of financial assurance attached to them. I believe the figure was \$90 million that was quoted. The ministry began an immediate review, once we had that information, in discussions with the auditor. Our review indicated that 553 certificates of approval were in the area that had financial assurance requirements, and when we went through each and every one of those particular certificates, we arrived at a bottom line number of 116 which were actually believed to be deficient and delinquent around those requirements.

Each one of those 116 deficient certificates was reviewed. As a result of that review, 53 either no longer required the financial assurance because the companies were no longer in business and it wasn't appropriate to have it or they had complied with the financial assurance requirements. There were several million dollars collected as a result of that.

I think probably what's of more interest to the committee here today is that there are still 60 remaining delinquent certificate of approval holders, and we are in confidential discussions with them, as we speak, around the province to ensure that the financial requirements in those certificates will be met and complied with as expeditiously as possible. In some cases, we have reached agreement as to the amount that should be on file. In other cases, the owner is assessing the liabilities and the comments we have made and is negotiating the terms of financial assurance. The third situation we have is where owners are not going to agree with the

assessment and they will launch an appeal. They have a right to do that, and they would appeal before the Environmental Review Tribunal.

I can assure the members of this committee that we will vigorously defend the ministry position, should there be any appeals. I can also tell you in terms of timing, we expect to have those remaining 60 delinquent accounts dealt with within this year. The amount of money we're talking about based on efforts to date would lead us to conclude that there is approximately \$7 million to \$9 million still outstanding. As I said, we will have that dealt with very shortly this year.

The Vice-Chair: I'd like to thank the ministry staff for appearing today.

I have two requests for you from the committee members. Each one of the committee members would like to have the opening remarks. Also, what Ms Churley had asked for, that that information be sent to the committee members.

Once again, thank you for appearing. I'd thank the committee members too. I guess we should adjourn. It's 12 o'clock. Thank you very much.

The committee adjourned at 1203.

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Official Report of Debates (Hansard)

Thursday 3 May 2001

Journal des débats (Hansard)

Jeudi 3 mai 2001

Standing committee on public accounts

Special Report,
Provincial Auditor:
Ontario Provincial Police

Comité permanent des comptes publics

Rapport spécial,
Vérificateur provincial :
Police provinciale
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ASSEMBLÉE LÉGISLATIVE DE L'ONTARIO

STANDING COMMITTEE ON
PUBLIC ACCOUNTSCOMITÉ PERMANENT DES
COMPTES PUBLICS

Thursday 3 May 2001

Jeudi 3 mai 2001

The committee met at 1035 in committee room 1, following a closed session.

SPECIAL REPORT, PROVINCIAL AUDITOR
MINISTRY OF THE SOLICITOR GENERAL

Consideration of chapter 4(3.12), Ontario Provincial Police.

The Chair (Mr John Gerretsen): I'd like to call the meeting to order. Welcome, Deputy and delegation. We look forward to your presentation of about 10 to 15 minutes. Perhaps you could identify yourself as you speak, and then I'll throw it open to questioning from the committee members.

Ms Virginia West: My name is Virginia West, and I'm the Deputy Solicitor General. Today we have with us Commissioner Gwen Boniface, who is the commissioner of the OPP, Deputy Commissioner Moe Pilon, Deputy Commissioner Vaughn Collins and Provincial Commander Gwen Strachan. We welcome the opportunity to attend with you this morning.

My presentation will be brief, and then I'll pass it over to Commissioner Boniface for her remarks prior to questions and comments.

I welcome the opportunity to update you on the Provincial Auditor's 1998 report and our response to the recommendations. First, perhaps I can provide you with some background on the ministry and the OPP.

The Ministry of the Solicitor General is responsible for overseeing law enforcement and public safety in Ontario. These diverse and complex responsibilities are administered by a number of highly specialized organizations within the ministry, including the Ontario Provincial Police.

I'm proud to lead an organization that is committed to ensuring that Ontario communities are safe, secure and prosperous and protected by a modern, effective and accessible justice system. Not only must our communities be safe, they must feel safe to the people who live within them. The direct protection of our communities through effective law enforcement, investigative excellence, emergency preparedness and fire services is a fundamental priority for the ministry. The policing services division, the Ontario Provincial Police public safety division, Emergency Measures Ontario and the office of the fire marshal provide these protective services.

The Ontario Provincial Police mandate is unique among Ontario police services in that it includes municipal, First Nations and provincial responsibilities. The diverse services provided by the OPP include provincial park policing; criminal investigations; emergency assistance; and highway, waterway and snowmobile patrols.

We're hoping to provide to you this morning a copy of OPP Quick Facts that we've distributed, which shows you that the OPP is one of North America's largest deployed police services.

The OPP's jurisdiction covers an area of approximately 993,000 square kilometres and 174,000 square kilometres of Ontario's waterways, 49,000—or more than a third—of Canada's snow trails and 38,600 lane kilometres of provincial highway.

Over 5,000 uniformed members, 850 auxiliary officers and 1,600 civilian staff deliver policing services from 77 administrative detachment centres, six regional headquarters and general headquarters in Orillia.

Community safety is the foundation on which OPP policing service is planned and delivered throughout the province. Working in partnership with communities, the OPP is accountable for developing and delivering service that effectively addresses safety and security concerns.

Let me now pass the floor over to Commissioner Boniface for her remarks.

Ms Gwen Boniface: Good morning, committee members and Provincial Auditor.

Before I update you on our success in implementing the Provincial Auditor's recommendations, I'd like to take a moment to talk a little bit about how the OPP has changed since the auditor's report was completed.

The deputy ended her remarks with a statement about accountability and a partnership approach to service delivery. To that end, community policing is a fundamental principle under which the OPP delivers its service. Detachment commanders are not only accountable to the province, but directly to the communities they serve.

The changes in 1997 to the Police Services Act significantly altered the business accountability relationship for the OPP. In 1997 the OPP reported to 28 police service boards. Today the OPP's governing authorities include not just the Minister of the Solicitor General and the province, but also now 87 police boards and municipal councils who have contracted with the OPP for police service and another 276 communities that pay for OPP services without a contract.

In addition, as a result of the Police Services Act adequacy and effectiveness standards regulations, which I will speak more about later, 55 municipal police services have contracted with the OPP for highly specialized services. Presently, approximately 35% of the OPP's budget is provided from entities other than the provincial government.

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The community's level of satisfaction with our service is extremely important to us. We customize our services to meet individual needs of communities through continuous consultation with these local governing authorities, such as municipal councils, police service boards and community policing advisory committees.

We have consultation at the local level that drives us to ensure that our provincial service is truly community-oriented. And equally, it is consultation at the local level that helps us to evaluate the service we provide.

We are one of the first Ontario police services to directly survey the citizens of our community on the quality of our service delivery. The OPP's Policing for Results survey was designed to measure the level of community satisfaction with OPP services and to gather information on local public safety concerns.

Our business planning process enables the OPP to deliver those services effectively, efficiently and with accountability. It is within this context that the OPP operates.

Having said that, the Provincial Auditor made a number of recommendations. Specifically, the recommendations covered the following three broad areas: community policing, human resource management, and provincial revenues from municipal police services.

The Provincial Auditor made three specific recommendations related to community policing: firstly, that we fully implement the process developed for identifying and prioritizing police service to meet community service expectations; secondly, that we identify and disseminate best practices in community policing among our detachments; and thirdly, that we measure the effectiveness of community policing activities against established criteria.

The OPP has been a leader in fully operationalizing community policing in this province. This fact is supported through our business planning process. Specifically, we identify and set priorities through the development of local detachment and regional business plans. Performance measures and benchmarks are developed in concert with our communities. Our business planning process is the tool used to ensure that we are responsive to the community needs and expectations.

Our best-practices warehouse includes all of our successful community initiatives and includes national and international best practices on community policing. Our officers can access this warehouse to see what creative solutions worked in other communities and to apply those successes to their own communities.

Over the past two years, we have conducted a comprehensive customer satisfaction survey in 65 locations across the province. We sought responses to both local

and corporate issues, and the results overwhelmingly indicated the OPP communities are extremely satisfied with our service delivery. For example, the survey found that 78% of respondents were very satisfied with the OPP's efforts in working with the community to solve local problems. Fully 85% of the respondents indicated they feel safe or very safe in their communities.

The business planning process, enhanced by a best-practices warehouse, our customer satisfaction surveys and our ongoing reporting to community groups ensure that we are effective in identifying and meeting communities' public safety concerns.

On a second issue, the Provincial Auditor noted that the OPP should promote the appropriate use of overtime and monitor its use so that, if necessary, appropriate corrective action can be taken.

The use of overtime has changed in the past several years. There has been a decrease in the number of administrative overtime hours and an increase in the number of front-line policing patrol hours. Overtime hours have remained fairly constant at 440,000 hours per year. However, expenditures have increased as a result of the increasing size of the OPP, increasing costs of overtime due to subsequent collective agreements in both 1997 and in 2000 and, of course, major events such as the ice storm in eastern Ontario and the Organization of American States conference in Windsor. Overall, overtime expenditures as a percentage of total salary expenditures have not changed significantly.

OPP policy mandates that all overtime must be pre-approved, with the exception of emergency situations. In 95% of the instances where overtime is worked, it is pre-approved. In all cases, overtime is reviewed at the detachment and regional level on a monthly basis. These measures ensure that the overtime incurred is appropriate and monitored to allow corrective action to be taken, if necessary. Of our total overtime expenditures, approximately \$7.4 million, or almost 30% of overtime expended, was recovered from municipalities and returned to the government as revenue.

On the issue of differential response, in 1998 the Provincial Police should determine and implement the mechanisms necessary to ensure that the differential response unit program is fully utilized. Differential response was developed to provide for a more efficient direction of resources toward occurrences of priority and importance. The procedure creates the option of controlling initial or immediate response to selected minor occurrences such as theft under \$5,000, theft from vehicles and lost or found property. If callers agree there is no need for an immediate response, the procedure provides a method of organized follow-up when required.

The mandate of the differential response program was to develop a program that focused on the principles of community policing, recognizing the geographical, cultural and social diversity of the communities we serve.

In response to changes in the Police Services Act and the need for increased accountability to the communities

we police, and in keeping with our community policing philosophy, detachment commanders consult with their local police services board and their community policing advisory committees before implementing differential response at the local detachment level. Communities determine whether or not they will utilize DRU. Many of our communities have expressed a desire to see police attend every call.

OPP detachments in high-density urban areas use differential response more widely than those in the more rural areas of the province. A number of OPP detachments have implemented formal differential response units after consultation with the local police service board and/or the community policing advisory committees. Haldimand-Norfolk, for instance, a contract detachment in western Ontario, manages approximately 10% of all calls for service through differential response. In contrast, the police service board for the OPP's Caledon contract has directed that the OPP attend all calls for service. In the greater Toronto region, collision reporting centres, a variation of the differential response, process approximately 80% of all traffic collisions through the collision reporting centre.

Usage of differential response is much less formalized in northern and rural Ontario, and in these areas fewer detachments have set up formal differential response units. This having been said, detachments in these communities regularly use a natural selection process. For example, a detachment commander in a remote northern location would not expect an officer to drive 100 kilometres to investigate a stolen bicycle. A decision may be made to handle such a call over the phone through informal differential response, and always with the agreement of the caller. Alternatively, the same detachment commander may choose to respond to lower-priority calls in order to provide increased visibility in the more remote communities.

OPP policy has been revised. New specialized services codes have been added to our daily activity reporting system to provide a mechanism for tracking all usage of differential response. This will ensure measures will be available to municipalities should they choose to use differential response.

Turning to municipal policing, the auditors also reviewed the OPP's systems for billing municipalities for police services. They've had assurances that costs of providing services to municipalities are appropriately recovered. They made two system recommendations: first, that we ensure that our systems are adjusted to collect more detailed information to identify costs for recovery and, second, that we work with the ministry to establish adequate systems and procedures to more effectively bill and collect costs associated with the delivery of police services to municipalities.

The auditors recognized that recent amendments to the Police Services Act created an environment of significant change and that it would take time to develop these effective processes.

As I previously noted, over the past three years the OPP has grown from providing services under contract in 28 communities to 87 communities under contract at present. Today, with municipal restructuring, we efficiently manage a complex process of billing and collecting revenues from some 276 communities.

In response to the auditor's recommendation that we ensure the costs of providing services to municipalities are appropriately recovered, we have upgraded our daily activity reporting system. The changes to this system are helping to more accurately identify, capture and track municipal and provincial workloads. The daily activity reporting system provides the primary basis for our methodology.

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The OPP has also made several adjustments to the reporting and billing systems it uses in consultation with the Ministry of Finance in order to foster better cost recovery and to improve reporting of costs to the local municipalities and the government.

Better data collection as well as improved costing systems have enabled the OPP to estimate, reconcile and collect the costs of municipal policing.

Finally, in the area of staff deployment, the auditor recommended that we review our current staff scheduling practices and revise them as necessary to ensure that officer hours worked are efficiently matched to the service requirements of the communities involved.

This brings us back full circle to where we began today: the OPP's accountability and responsiveness to community service delivery. Recognizing this is critical, the OPP and Ontario Provincial Police Association worked together to develop a shift scheduling manual. This manual was signed by myself and OPPA president Brian Adkin in September 2000. We worked with the OPPA to ensure that we not only met the needs of our community but that we were responsive to the impact of various shift schedules on the lives of our staff.

This manual facilitates negotiations to change schedules so that detachment commanders can more effectively deploy staff. The manual clearly stresses the need to ensure that officers' hours are effectively matched to the service requirements of communities. It was distributed in November, posted on the OPP Intranet and included in our police orders. This year, as part of our ongoing detachment self-audits, we will be spot-auditing detachments to verify the use of this tool.

In closing, I trust I have covered the concerns of the auditor. We welcome any questions from the committee.

The Chair: We'll have 20 minutes each for questioning, and there may be a subsequent round after that of two or three minutes for follow-up questions. We will start with the official opposition.

Mr Dave Levac (Brant): I appreciate the opportunity. Welcome, and thank you very much for your work. Good to see you again, Commissioner. I have some general questions and then I want to get into some detail.

When you make statements like "one of the first police forces" and "one of the largest police forces,"

could you identify the number of police forces we have in the province?

Ms Boniface: There are 68, I believe.

Mr Levac: In terms of the 68, they're represented by how many groups in terms of the associations?

Ms West: My understanding is that for each of the police services they have their own association. There is also the umbrella association, the Police Association of Ontario.

Mr Levac: Right. When you use terms like "one of the first" or "one of the largest," are we speaking of the umbrella or are we speaking of the individual association?

Ms Boniface: When I spoke about one of the first, I was referring to the OPP as an organization.

Mr Levac: Right. So then the other two umbrellas would be the ones you're comparing them to? Toronto Metro and—

Ms Boniface: No, sorry. The deployed organization would be the RCMP. So I'm comparing them to organizations that have deployment, that are broader and not contained within a municipality or a region.

Mr Levac: Very good. There's a differential between what you said and what I was understanding.

From your presentation generally, I get the impression that you have either worked on or disagreed with the auditor in his assumption of some of the facts. Can you clarify which areas you believe that you've worked on since that and said, "Yes, maybe you've identified some areas in which we need to work," or "No, you're wrong."

Ms Boniface: In fact, I believe we agreed with the auditor in all of the things I spoke to. We have progressed significantly on the issue of municipal policing. As well, on the overtime management we have put the systems in place that he recommended in overtime by moving to detachment review and regional review for those on a monthly basis. On the differential response, I only clarified in the context of our reporting relationship to our local police services board and our need to consult on implementation of those. As I said, we are tracking the differential response approach and will be monitoring with the police services boards and having that information available to them.

Mr Levac: Are there any forces that are not under authority of a police service?

Ms West: Sorry. Under the authority of the Police Services Act?

Mr Levac: Under the police services boards in municipalities. Are there any that are not under the direction of a police services board?

Ms West: The municipal police services are all under the direction of a police services board. The OPP, as dealing with both provincial policing and municipal policing, also are responsible to boards, but they are, under section 10—

Ms Boniface: Maybe I can clarify. Under the Police Services Act, section 10 dictates that if you have a contract with the OPP, you must establish a police service board. When I referred to the 86 police services boards,

for instance, in Brant county there would be a police service board for Brant county. The detachment commander would report to that board as well. So there are 86 of those parallel situations around the province for the OPP bigger structure.

Mr Levac: When I heard that, again, I was thinking that there was an opportunity for there not to be a police service board the way I heard it. So obviously I misheard the comment.

You said you had a 78% approval rate from the surveys that you're doing in terms of community satisfaction. Are there any factors you believe would accommodate that other than the service that's being provided presently or the changes of services that have been provided by the OPP in the past as opposed to the present?

Ms Boniface: I think the important point is, that's the first time we've done the formal survey. What we intend to do with the figures—for instance, 78% on problem-solving approach is really unique to community policing. So we are measuring that piece in terms of problem-solving, using those for the benchmarks. We will come in every two years comparing those. Our hope, of course, is that we would improve in terms of both understanding in the community on the issue but also in our service to the community in that respect. That dealt specifically with the issue of working with the community particularly to solve specific problems.

Mr Levac: Thank you. That's important to note for a benchmark for the following service.

I want to come to the overtime situation. As was pointed out, statistically the Wednesdays and the Saturdays versus time on/time off and overtime being applied to the Wednesdays, your indication was that you are working now with the OPPA to solve that problem because it is an identified statistical problem. Correct me if I'm wrong, but that's not in the collective agreement in terms of the deployment or management of the shifts. Is that correct?

Ms Boniface: The shift scheduling manual is separate from the agreement. The manual was created through discussions with the associations, attempting to allow enough flexibility to move around, because as you would appreciate when you're dealing with small northern communities versus what you may deal with in the greater Toronto region, you're trying to create a breadth of choices to be made. The negotiations were completed, as I said, in November, and we are in the early stages of the implementation. That will be done at the local detachment level. We will be doing the appropriate monitoring to determine its success.

Mr Levac: Have you seen an increase in the use of retired police officers in a line item in your budget that doesn't reflect overtime but shows an increase in use of officers who are retired and using them for other special services?

Ms Boniface: We have an agreement where we use retired officers or officers with previous service in order to work at the local level. It is an agreement with our association in order to do that. To my knowledge it

would not have increased, but I could follow up with you, sir, and get that information back to you.

Mr Levac: I appreciate that. Subsequent to that, then, maybe a follow-up would be, is there a correlation between decreasing overtime and the use of those particular officers?

Ms Boniface: I can send that in. I don't believe there is, but I can send that as well.

Mr Levac: An article that was produced on an internal audit that was done on the criminal investigation unit had indicated some concerns. Could you review with us those concerns and the implementation of a plan to improve or correct those?

Ms Boniface: With your permission, Mr Chair, I'd like to ask Deputy Commissioner Collins from investigations and organized crime to speak to that issue.

The Chair: Go ahead.

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Mr Vaughn Collins: The audit that you refer to was done a couple of years ago in a particular branch in investigations in the OPP. The recent restructuring that was done last fall put the two investigative major bureaus under my command in what is now investigations and organized crime.

Being aware of course of the recommendations of that audit in terms of concerns about administration supports, and bringing in new leaders for each of the investigative areas, what they have come up with is a comprehensive plan that addresses all of the issues that were listed in the audit and in fact have created something unique for us: rather than creating individual administrative supports for their bureaus, they have done this jointly. With some economy of scale and using the best of what existed in each of the separate bureaus at the time, they brought them together under one head and brought in some more professional resources, so they have a more professional approach in terms of financial management systems and that type of thing.

Mr Levac: I appreciate that. So that's an ongoing situation that you're going to be referring to. It wouldn't have been corrected overnight, I'm assuming.

Mr Collins: Oh, no. Changing systems and bringing to bear administrative supports takes a little bit of time. Significant progress has been made. It has come a very long way. There are a few things yet to be done. I expect the majority, if not all, of that to be finalized by the end of the summer.

Mr Levac: Community policing, Commissioner—you made an indication that the commanders are going to communicate and work with their police and, I'm assuming, their municipalities, because they're under that control. There's been a device—a tool kit or a process—to implement community policing and crime prevention and all of the other issues. It sounds to me like you're talking about grassroots up, to design what their community has desired to have a focus on. Can you help me with the implementation of the tool kit and an evaluation of the use of the tool kit that will be taking

place or has taken place or should take place in order to find the effectiveness of that particular action?

Ms Boniface: We will be doing a continuous review of it. Our police service boards and our detachment commanders would normally meet—and this depends on the local level—on a once-a-month basis. There's a review of the priorities that are set by the board in terms of the concerns expressed at the local level. The business plan which would be built up is built from the bottom up by the detachment commander, and they're assessed on an annual basis. So they have to report as to what the results were of their business plan based on the goals they have set at the local level and report that back to the board.

In addition, as I mentioned, we would do our survey two years hence and look to how that compares and look specifically for issues around community policing.

In addition, the best-practices warehouse is continuing work in terms of capturing successes in other jurisdictions, including our municipal counterparts, nationally and internationally, on specific areas that develop so that we not be in a position to reinvent the wheel. If there are good practices out there, we would like to take advantage of them.

Mr Levac: How are we fixed for time, Mr Chairman? Are we OK?

The Chair: You have five more minutes.

Mr Levac: OK, I'll defer to my colleague. He just hit me on the back of the head.

Commissioner, I want to follow up on that. I think I heard you say that the police officer or the commander "could" access the database that you have. Am I correct in my hearing, or is it "should" or "must" or "shall" access that database? I'm concerned that if we have this data bank of wonderful new practices and someone decides, "I'm not going to look into it," do they have to justify them not using it? Is that fair to ask?

Ms Boniface: They would access it based on the issue they're dealing with. I think you're correct in that they could access it. They are certainly encouraged to access it. And it's not just detachment commanders; it can be accessed by officers working directly in the community or dealing with—

Mr Levac: On an issue?

Ms Boniface: On an issue. If you had, for instance, a youth issue and you wanted to get some sense of how other communities have dealt with it, then they can go directly and access the information. I would be hard pressed to think of why somebody wouldn't do that given that the information is available to them.

Mr John C. Cleary (Stormont-Dundas-Charlottenburgh): I just had one question that I've been asked back over the years—not so much recently. Do all areas in the province have 24-hour OPP policing? Are there police officers on duty all the time?

Ms Boniface: Yes. When we reorganized in 1995, our goal was to put 24-hour policing across the province.

Mr Cleary: The other thing I've been asked doesn't really have to do with policing, but are the vehicles all owned by the government or are some of them leased?

Ms Gwen Strachan: All of the patrol vehicles are owned by the government. There are a few examples where there are some leases in place. However, those are for a special purpose and the fleet overall is a government-owned asset.

Mr Cleary: Namely for the RIDE programs and the seat belt blitz and things like that?

Ms Strachan: They are our government-owned vehicles.

Mr Cleary: I guess that's it.

The Chair: Mr Levac, you still have a few minutes.

Mr Levac: Maybe this isn't the place but I wanted to know your access to the monies for the RIDE program. Are you aware of whether or not the amount of money that's being spent by the government has increased, decreased or stabilized, and we've simply thinned out the wine, shall I say, providing more monies for other communities to engage in the RIDE program? I throw that out there for anybody if they want to tackle that one.

Ms West: The government has provided funding through a grant process for municipal police—not through the OPP—specifically for this program, to access, to assist them with RIDE programs. I can't recall specifically what the levels of funding have been, say, over the past five years, but I can get that information for you. Within the OPP, obviously they conduct many of their RIDE program activities within their core funding and their resources that are established on a regular basis.

Mr Levac: Having said that, then, it would be a fair statement to say that it hasn't thinned the wine because they're from two pots of money.

Ms West: Exactly. So for the municipal police, the support the provincial government provides to the municipal police is separate from what the OPP draws for their RIDE programs.

Mr Levac: Commissioner, finally, there seem to be some communities—and I will say it in those terms—that feel the police presence hasn't changed anything from contracts they received before. Therefore, some surveys would show that the satisfaction is fine, because the police presence is still the same as it always was, but smaller communities that ended up having a large urban population—and I would use my own riding as an example—have seen a diminishment of the presence of the police officers because they chose to pay more money previously.

Contractually, have you found that there have been municipalities reaching a compromise in the middle here, saying, "Well, we could have done that," but they didn't want a larger contract? The municipalities in essence were cash-strapped because of funding formulas and they just simply signed a cheaper contract.

Ms Boniface: I'm just trying to think across the province. My sense of the answer to that would be no, because we operate on an integrated model. If I use your own area, for instance, where you had a small urban

department and then a rural department, when we integrate the service, it operates in a different fashion on an integration process.

In other areas of the province, some of the municipalities have chosen to leave the two divided and have not integrated the service. They may see some slight differences in those comparisons. My sense is there's quite a pattern across the province depending on the community's wishes at the time.

Mr Levac: I have one final question. This is for the benefit of an individual constituent but it has ramifications across the province for many officers. There seems to be a small problem with transference of pension funds into other pension funds that just doesn't seem to get answered for those police officers who are making a transition from municipal police to the OPP. Are you aware of that problem?

I believe there's a simple solution, just saying, from a certain commissioner, "Yes, it is doable, because it's covered." Is there anything else we can do to help those officers who are stuck with maybe losing hundreds of thousands of dollars in pension money?

Ms Boniface: My understanding on that is it's a pension board issue around the operation of pensions, and as the commissioner of the OPP I would be quite prepared to continue any discussion on that issue. I don't think there is an easy solution to your issue. It has been outstanding for some time. I would be quite happy to continue any discussion.

Mr Levac: That's great, because the commissioner does have the authority to do it, but it's just a matter of whether they want to see that money transferred or not.

Thank you very much.

1110

Ms Shelley Martel (Nickel Belt): Thank you for joining us today.

I wanted to begin with some questions on community policing. The first one was whether or not the OPP has a template for community policing that you provide to your detachments to work with.

Ms Boniface: I'll let Deputy Commissioner Pilon respond to that.

Mr Moe Pilon: Good morning. The OPP, in initially getting involved in community policing—I guess I should first of all say that before it became trendy, I think most of our members thought they were doing community policing and in fact working with communities and so on. But in the advent of the problem-solving era and so on, the OPP developed what we call a "How do we do it?" manual. This was shared not only with our members, but also with our communities and police services boards and community policing advisory committees. That formed the basis, if you will, for our community policing effort. But I think you have to understand also that community policing is not so much a process but a philosophy. This is how we incorporate it into the organization. We work with our communities to solve problems, and it's everybody's responsibility—not just the police, not just the community.

Ms Martel: Was that manual reviewed by the ministry, did it require approval by the ministry, and when was it developed?

Mr Pilon: I don't have the exact answers for you, but I could certainly get that. I suspect it was developed going back to about 1996 or thereabouts. As far as the approvals, I'm not sure.

Ms Martel: Would you know, Deputy?

Ms West: I wasn't here in 1996, so I don't know if there were approvals. I would assume, but we can check it out, that there was sharing, because within the ministry, policing services division helps to support and inform other police services as well, municipal police services. So I would hope at the very least there was a sharing of the information and best practices.

Ms Martel: Does the manual provide for any mandatory obligations that have to be met, ie, numbers of meetings, who has to be part of advisory committees? Is there a list of issues that always have to be considered in terms of on the table that municipalities might be concerned about?

Mr Pilon: I think the short response would be that there were some guidelines with respect to a number of those issues. I don't have the specifics with me. I suspect that a lot would hinge on the response at the local level in terms of the community commitment to be involved, the requirements by the community for accountability and so on. That again is something that we would be quite willing to share with you in terms of the content of that document.

Ms Martel: Does the commission find itself in a position that you have to direct detachments to implement what might be in the manual or just to implement best practices with respect to community policing? I raise that because, as you would know, one of the auditor's concerns was that at the top offices there certainly seemed to be policies and procedures in place, but at the local level it varied quite a bit as to who was implementing them and who wasn't. What are your mechanisms to monitor what's happening on the ground across communities? Do you have a formal process to do that?

Ms Boniface: Maybe I can take that. The original community policing plans are now incorporated into the annual business plan. So the business plans are to set the targets based on the consultation with the community, and in those places where we have police service boards and community policing advisory committees, that would be a joint process. Then at the end of the year, once they've set their targets for what they see as the priorities for the community, they report back into the community in terms of their accomplishments in that regard. So that would be at the local detachment commander level.

Ms Martel: Do the annual business plans that are developed annually, clearly, at the local level have to be submitted somewhere, approved somewhere, reviewed somewhere?

Mr Pilon: Yes. They are all submitted to our regional offices, and in fact a number of the local initiatives are incorporated into the regional business plan, which again

is then rolled up to the corporate area. We review the regional business plans and then incorporate those things coming from the environmental side, the ministry, the government and so on. So we try to develop a corporate business plan that is in keeping with our communities, but also in keeping with the corporate needs. It is an overall package. The corporate business plan is not a reflection of what is contained in the local plan save and except for some of the initiatives, because there may be something that will come from one community that the region will pick up on as a great thing for all communities, if the communities are willing to buy into this notion. It is sort of a best-practices system in itself.

Likewise, there are corporate initiatives like safety on provincial highways which we all want to ensure that our detachments are involved in that we bring forward as part of the corporate plan. But as the commissioner has pointed out, the business plan is between the community and the detachment and it is reviewed at that level also. So they consult with the community to develop their local detachment plan. Some of the local detachment plans contain several initiatives. I think some of our detachments might be hard pressed to deal with all of them at once, but they pick away at the initiatives and report back regularly to their authorities, whether it is a board or a community policing advisory committee, on the results they are achieving.

Ms Martel: Deputy, does the ministry then have a system to track the information as it comes in, since at the end of the day the ministry has the overall responsibility via legislation to ensure that community policing is being implemented? How does their work come to you? Does it have to be reviewed? Is it reported annually etc?

Ms West: It will roll up at a certain level, obviously, into the ministry business plan and will reflect itself in the priorities of the ministry itself, so that in terms of the application for resources certainly it would reflect the priorities within the OPP with respect to corporate initiatives, with being able to respond to the initiatives at a community level. But it would obviously be done at a relatively high level once it reaches the ministry and the ministry business plan. So there is a roll-up effect. There is an opportunity for a drilldown if necessary, but I would say it is more looking at it at the higher level.

Ms Martel: My final question, then, in view of the concerns that the auditor raised, which were whether or not community policing was being implemented generally across all detachments: with the changes that you've outlined to us—the business plan, the warehouse, the ongoing reporting to communities—do you feel confident, do you feel comfortable that you're at a stage now where in fact you've responded successfully to the auditor's concerns?

Ms Boniface: My sense is, yes, we have. Let me put that in context. One is that the business plans that are reviewed at the regional level are reviewed with great scrutiny. As well, I have been through most of the communities in northeast, northwest, some in east, some

in west, in the three years, and I meet with police service boards or the community policing committee or local municipal councils to get feedback. The consistent feedback that I've gotten across the board is that the business plans have been a great success both for the community understanding what the policing issues are and also having input back in.

I think the greatest success really was the merger of the community policing plan into the business plan process at the local level. I have not heard anything negative about that process. It has allowed them to have something concrete to work with and some reporting back as well.

Ms Martel: Let me ask about overtime, a couple of questions. Can you give us some idea of what the trend has been on the overtime, with monetary values as well, from 1997—if you could start in 1997, and I'll tell you in a moment why I'm asking about 1997—to the most recent statistics that you might have available.

Ms Boniface: Just give me a moment to make sure I'm reading the right thing.

Overtime hours in 1998, the figure I have is just over 460,000; in 1999, 409,000; in the year 2000, 444,000 total overtime hours. You have to put that in the context of the different size of the organization we may have been in each of those years, because of some of the changes that have taken place around both municipal restructuring and areas that we have absorbed as well as areas that are no longer. I use it, but I just caution not to compare it as if it's the same number of officers each year, because that figure alters.

1120

Ms Martel: So I should assume in all those years there would be a great variance in terms of actual officers?

Ms Boniface: There may be some variance. The act came in on January 1, 1998, and we've really been in a time frame of change since then in terms of the numbers coming on board as well as having an area that has gone to other police jurisdictions.

Ms Martel: Would it be possible to do those calculations?

Ms Boniface: I could provide you—not today, but as follow-up—with the best I could give you on that, and work out some formula for you.

Ms Martel: Let me ask you, then, for the same years that you have given us, could you give us a monetary value of that overtime?

Ms Boniface: Yes. I can provide that for you as well.

Ms Martel: You said that in 1997 and 2000, collective agreements significantly increased overtime. Should I assume that there were provisions in there that increased shift premiums for overtime? I'm not clear what it was in the collective agreements in those two years that would have increased your overtime costs.

Ms Boniface: Salary levels go up, and so does the overtime as a percentage of the salaries.

Ms Martel: If I heard this correctly, you said 95% of your overtime is preapproved. So the 5% would be strictly emergency?

Ms Boniface: Yes.

Ms Martel: I hope this is not a silly question, but what is the reason for that overtime? That seems to me, as a layperson, to be an extraordinary amount of overtime that is pre-approved, so I'm led to wonder, then, is this a resources problem, ie, not enough resources, or is it a serious problem of management of people's schedules? I just find that to be quite an incredible amount of overtime that people anticipate that's not an emergency. Do you understand what I'm asking and where I'm going?

Ms Boniface: Yes. I understand what you're saying. Off the top, one may be court, where court scheduling may not coincide with the officer's working day. Obviously, they're under subpoena to attend court. I don't know if Deputy Pilon can assist you in that regard.

Mr Pilon: Yes. I'd like to just provide some context for some of the pre-approved overtime. It has to do with, I guess, the policing business, if I can use that term. Courts require continuity of evidence, continuity of chronology of events and so on. Oftentimes we'll find that an officer, through no fault of their own, may be sent to an investigation two thirds of the way through the shift. And then as they get into it, it is something that they can't just drop or turn over to someone, but it's going to lead them into extra hours for that shift. They would speak to their supervisor and get that overtime authorized, so that would be termed pre-approved.

In terms of efficiency, it does not make sense and, secondly, in terms of being able to do the job, it does not make sense to try and reassign that function to someone else, because you'll end up with extra court time, you'll end up with extra people involved. And depending on the type of investigation, it may be one where you require a specialist to come in, or what have you. Even for a simple thing like an impaired driving offence—I don't say it's a simple thing, but if an officer gets tied up with an impaired driver toward the end of the shift, again, you would lose the continuity of evidence and you would have problems in court and so on if the officer wasn't able to stay on for the extra two hours or whatever it took to get that job done.

So oftentimes it has to do with the type of work we're doing. Oftentimes it may be an emergency that comes up, and it will still be pre-approved, when officers are sent to a certain location for whatever it might be. There are a number of things intrinsic in the way we do business that don't lend themselves to just saying to an officer, "OK, you finish your shift, and we're going to get someone else to take care of it." Hopefully that just provides some context as well.

Ms Martel: Right. If I might ask the auditor's staff the same question on overtime, because this was raised earlier. If I got your statement correct, it was that you felt in your review that the overtime was not due to court appearances or the introduction of 12-hour shifts. So can I ask how you arrived at your conclusions?

Mr Jim McCarter: One of the concerns we had is that from 1994 to 1997 overtime was up about 140%. We found, for instance, on Wednesday night, which is a low service level, it had the highest number of overtime hours. That was one of the reasons that we had a concern.

Ms Martel: But your tracking was between 1994 and 1997.

Mr McCarter: Yes.

Ms Martel: So would there have been some kind of shift in policing work after that that would then lead you to think that it was court appearances?

Mr Pilon: First of all, if you look at the period 1994-97, and I think we've indicated this in one of our responses to the Provincial Auditor, we went through a period when we had significant movement in the organization. Retirements were up significantly, we had a young workforce, so you essentially had a core group doing the majority of the work, if I can use that term. You didn't have the breadth of experience that you would require on an ongoing basis at that particular time. Since that time we've stabilized the workforce somewhat. I'm not sure the Wednesday night issue would still be applicable, although I don't know for sure. Looking at our overtime today, from my perspective and having some knowledge of other organizations, this is not inconsistent, nor is it an indication of anything more than a need, in a sense, to get the job done.

Ms Martel: What, if any, impact would a move to a 12-hour shift have on overtime?

Mr Pilon: I'd be offering an opinion: certainly there's a possibility but I think, as the commissioner pointed out, the whole issue of shifts is something we've been addressing and continue to address. We've found in some cases that the 12 hours is actually more efficient, but that's not always the case. I suspect that there are cases also where the 12 hours may have contributed to some of the overtime.

Ms Martel: Let me go back to the Wednesday evening scenario because it rolls into my next set of questions, which would be the agreement that was signed last fall to try to deal with staff deployment. Can you give the committee a sense of what that agreement permits? What does it allow for?

Mr Pilon: The agreement is essentially an agreement to permit the review of shifts at each of our work locations, including general headquarters. That review is based on certain criteria, but it also keeps in mind the flexibility we need as an organization to operate in different environments, different-sized locations and so on. But the primary focus is, this is the way we will conduct the reviews. As the commissioner has pointed out, there is a follow-up mechanism also.

I'm aware of at least one location where they've completely changed their shift and I'm aware of several others where they are looking at the shifts. It provides for any member, including the attachment commander, of course, to propose changes to the shift. It requires analysis of workload, times of special events and so on.

It's to ensure that the public is served the best we can do with the resources we have at that specific location.

Again, we can provide you with more details around the specific agreement, but as I said, the agreement's in place. It provides the mechanism for a review of the shifts at each location to ensure that we're operating in the most efficient way we can be.

The Vice-Chair (Mr John Cleary): Ms Martel, another 30 seconds.

Ms Martel: Would you say that this responds to the auditor's concerns that were just noted again about Wednesday night, seemingly not a busy night—I don't know how else to describe this in terms of criminal activity—whereas weekends, as you said to us earlier, there seem to be fewer officers?

Mr Pilon: Over the years, we've gone through a variation of different shift schedules. The 12 hours is not unique and it's not right across the organization. We have a variety of shifts, ranging from eight to 10 to 12 hours and so on. I guess this is the key piece to it: with this agreement we're able to develop the unique shift schedule to a particular location to ensure that ideally we will not have the majority of people working in the quietest time period and that, in fact, just the opposite is true; your busy times will have the most officers available for duty. I think, yes, this does address the auditor's concern.

1130

The Chair: The auditor wants to make a couple of comments.

Mr McCarter: I noticed that you brought up the court attendance thing back in 1997, but when we actually looked at it, we found that overtime hours for court attendance had declined in recent years. Has that trend continued?

Mr Pilon: I don't have the answer to that, but I could certainly get back to you on it.

The Vice-Chair: Now to the governing party for 20 minutes.

Mr Bob Wood (London West): I'd like to touch briefly on this issue of overtime. I think that overtime, in fact, can be a very useful management tool. I'm concerned that it be planned and controlled, but I would be concerned if you didn't have significant overtime. I think that if you had no overtime, that would be an indication of poor management, not good management. I would calculate, from what you said earlier, that the overtime would be something in the neighbourhood of two and a half hours per week per officer. Would that be a reasonable ballpark?

Ms Strachan: Yes.

Mr Wood: Somebody just said yes, so I gather it is.

Ms Boniface: Yes, it sounds right. My math doesn't move as quickly.

Mr Wood: I gather no one has suggested to you that the amount of overtime as such is excessive, or have they?

Ms Boniface: Just in terms of their reflection of the auditor's report, which I think was interpreted from our

perspective as being very specific. We would like to use overtime in a way that's efficient and serves the operations of the OPP, and we believe it does do that.

Mr Wood: I have not heard any credible suggestion that there's an excessive use of overtime. Am I missing something? Have you heard a credible suggestion?

Ms Boniface: No. I think what the auditor reflected was to have the systems in place to ensure that the overtime, where appropriate, was approved and reviewed. We have been doing that at both the detachment and the regional level. I think the systems reflect the recommendations of the auditor.

Mr Wood: I'd like to turn for a moment to the community consultation. Could you tell me to what extent, when you're preparing the community policing plans, there are clear, understandable results set out in the plan?

Ms Boniface: Yes. We gave you an example of our corporate business plan, for instance, but at the community level, the consultations would start early prior to the year they're to be applied to. They would have consultations with the police services board or the CPAC, outlining what we see as some of the policing concerns or reflecting what our statistics for the previous year would say. Then the community, obviously, absorbs that, takes into account the concerns they hear as representatives of the community, and the plan is built together with the police services board, or what we call the CPAC committee, the Community Policing Advisory Committee. Those plans are open to the public in terms of being available at the local level and they build those up and send those up to the regions for approval, firstly, to make sure that the community has had full consultation, and secondly, to make sure that it's reflective of the type of targets we think are appropriate for setting our own goals as an organization in terms of meeting community needs.

Mr Wood: What I'm really coming to is this: might we expect from these plans something quite specific, along the lines of a 10% reduction in reported break-ins in a service area?

Ms Boniface: Yes.

Mr Wood: I think that's what you need so the community understands what they can expect to get and the organization understands what it is they're supposed to deliver. I for one would hope we would get away from a lot of this micromanagement as to how you're going to do it and get people focused on what the result has to be. I think we might be surprised how much grassroots input, both police and civilian, might be offered if we did that.

Ms Boniface: Absolutely, and the sharing of it between attachment commanders and the members—they monitor it on a regular basis to ensure they know at any given point in the year where they are in their target.

Mr Wood: OK. We've heard some concerns today that some in the field may not fully understand the new plan for community policing. Something I've noted that I think can be very effective in getting a new idea across to people is holding a conference, maybe even a province-wide conference, and saying, "OK, folks, here are the reasons for the new plan. Here's how we suggest it

should work and here's how what you do day to day can work." Have you given any thought to that sort of conference, to try and get some of these ideas across to everybody in the organization? I might add, before you answer that question, that the Crime Control Commission has held some of these conferences before and they have been quite successful. Maybe we should be talking to you and the other forces about a conference on community policing.

Mr Pilon: If I may, that may be a very helpful suggestion but I just want to point out that we have had a number of conferences throughout our regions with most of our stakeholders. A number of our members were involved. At each detachment, you might say, we have champions promoting the cause. The detachment commanders are being held to ensure that they have a driven-in-the-community policing philosophy within their organization. Each opportunity we get, we reinforce that with the membership. As an example, we have detachment commanders in right now on a conference and one of the focuses of the conference is community policing, ensuring that we are working with the community and so on. But certainly the suggestion for province-wide would be very helpful.

Mr Wood: I invite you to consider taking us up on that and we'll certainly get involved if we can.

I had one other question I wanted to ask the commissioner, or there may be two or three questions on the same point. Are you familiar with the English system of the inspector of constabulary? Are you familiar with that office in England or not?

Ms Boniface: The Home Office?

Mr Wood: No, it's the office of Her Majesty's Chief Inspector of Constabulary.

Ms Boniface: No, I'm not.

Mr Wood: This is an office that does a complete audit of every police service in England and Wales every three years. So every force gets a complete audit. I think this introduces a fair amount of management accountability throughout the system so that the police services board equivalent in England, the community, the Home Office, can all see what's working and what isn't. Thinking in terms of the medium- and longer-term, do you think an office like that in Ontario which would inspect the OPP and all the municipal forces, say on a three-year basis, would be helpful? Do you think that's something medium- and long-term we should look at or do you think it doesn't apply here in Ontario?

Ms West: Perhaps I can respond to that just in terms of reminding the committee that under the Police Services Act and within the Ministry of the Solicitor General there is a responsibility in terms of conducting audits of municipal police services across the province. In fact, we carry this out, as well as the advisory role, in terms of supporting municipal police services. So there is a similar function, not to the structure that you've described here, but there is a function and responsibility within the ministry that we carry out on assessing where the particular risk may be or where a need is and going

into the various municipal police services and carrying out audits.

Mr Wood: Perhaps we can put the commissioner back on the spot and see if she wants to comment, or maybe she doesn't.

Ms Boniface: We would be open, of course, to whatever is done. We are audited by the Provincial Auditor, as you know, and there are some internal audits done in addition to that. But we're very open to anything that would advance policing in Ontario.

Interjection.

Mr Wood: Well, we don't have that level of expertise yet.

Mr John Hastings (Etobicoke North): Thank you for coming in today, Commissioner. What I want to go on about are some of the items that have already been raised. What I'm very concerned about also is—I've looked at your report and I guess it's under technical identification issues. In your business plans, in your agreements with the municipalities, in your support functions of policing, I don't see any mention of an overall technology plan in terms of where that is driving your organization. Do we have good software for getting the monies from the municipalities? When you say in your remarks, "a complex process of billing and collecting revenues," one could read into that that it's almost done manually. I'm sure it's not, but are we getting to a broader stage of where technology, not just the Internet but the use of software for your policing and support functions, drives your organization and really helps to make your people not only accountable but—and we've heard the term "efficient." I don't see a sense of that.

1140

On the other side, there's a group in North Bay called the Internet busters, for dealing with Internet credit card fraud and commercial fraud, which are skyrocketing across Canada. I'm wondering to what extent technology is being used there in terms of trying to create some specific results or goals, as Mr Wood has mentioned, and in terms of where the specialty training is going in your police college.

I get a very strong impression from your report that we're still in a traditionalist mode of operations. Perhaps that's a bit unfair and maybe you're in a transitional state. I'm a bit of a technology buff—not to say that technology is the be-all, but it is a very useful tool—and I'd like to know how this is impacting and helping or not helping your organization. Is that where you're putting some money? If we're going to put money in, is this where we need to be targeting?

Ms Boniface: If I understood, I have three different areas: one is the technology in terms of support; a second on our unit dealing with some of what we call Phone Busters and now dealing with some of the Internet issues in North Bay; and then the third in terms of the type of training and the use of technology.

I'll ask Gwen Strachan to speak to our IT plan, which you wouldn't see in the detail in here, then I'll ask Deputy Collins to give you a quick rundown on the

operation in North Bay and I'll deal with the third issue. So I'll let her give you the framework to start with.

Ms Strachan: I agree that technology is one of the key enablers for us to deliver our police services. We currently are working on a broader technology strategy around government mobile communications. We also are involved in an integrated justice sector technology plan which will bring clearer information across the justice sector to corrections, policing and the courts.

The opportunities we have to look at, the operational benefits of technology, are currently being explored within the OPP. So as part of our operational technology strategy, we want to look at the use of mobile units, the in-car computer approach and any other type of technology that supports the operation more broadly.

This is one of my areas, as I've assumed my portfolio, that I will be looking at. I have had discussions with our counterparts in the RCMP, to look at the type of efficiencies we can actually gain from our approach to technology, the type of equipment, the interfaces that are critical so that police forces can maximize the use of technology. So we have some very significant planning underway at this time.

I agree with you that it also is one area where significant resources will be required to move us to our new-tech world, but we are currently working on a plan to address that as well.

Mr Collins: In regard to the description of the Internet busters, or what we like to call the cyber busters, this grew out of our very successful Phone Busters program in North Bay. It was a significant partnership with the community and also grew into what is now referred to as seniors busters. The focus here is on telemarketing fraud, which for many years has been conducted over the telephone and which preyed on a number of people repeatedly. As a crime prevention initiative, it's one of the ones we're very proud of.

Of course, people who do this are constantly on the edge of new things like technology and they have resources that often seem to outstrip the police on occasion. Moving into the Internet in terms of telemarketing fraud is the next place they're at. So that's where we have moved, trying to keep pace with them in terms of the cyber crime that goes on.

I would also add, in terms of technology issues, that as a result of some new funding from the government last year we established what we call an electronic crime unit in our area. It is a group of officers who are trained to the highest level we can keep them trained and are provided additional software and other tools, because in terms of doing policing today, the tool that is very often used in committing crimes is a technology tool. Hiding behind passwords, encryption and all of that is pretty complex stuff requiring a high level of specialties, and all of our investigators, even at the average level, are running into this stuff. So this unit is established not only to assist our investigators in doing those things, but other police services in the province.

Ms Boniface: If I can just add, sir, on the issue of specialized training, we have entered into a partnership with Georgian College, which is next door to us at our headquarters in Orillia. We've done an exchange with them, trying to advance any opportunity we can have around distance learning particularly for our officers in terms of time spent in training, where you could actually do it electronically and do testing electronically.

We anticipate within a year that we will be able to maximize our opportunities around that. Any type of training we can do that doesn't have to be in person, of course, has some benefits when you're a large deployed organization.

Secondly on the specialization, we access from the highest level we can in terms of expertise, as the deputy said. With the Internet and some of the technology challenges for us, investigative challenges, we're going constantly around North America to get a sense of where the highest level of expertise is and how to access that training so that we can stay ahead of those who have a tendency to use that in order to evade the police.

Mr Hastings: Do you have people going quite often on training, as the city of Toronto police seem to do, for upgrades in criminal investigation, criminal intelligence and all this stuff, at Quantico?

Ms Boniface: Yes. Actually, I just returned from Quantico in March as well. We have officers all taking any highly specialized course—as you know, some of our specialized units are dealing with very high-level crime. With the expertise we seek out, we would probably be sitting beside Toronto officers at those conferences or those workshops.

Mr Hastings: Any plans for on-line, or is the material that's being utilized too sensitive, so that you have to do it in person?

Ms Boniface: We're looking at all avenues of technology, but particularly ensuring that all the security systems we use can protect both our organization and our officers, as you would appreciate.

Mr Raminder Gill (Bramalea-Gore-Malton-Springdale): Thank you for being here. According to what my colleague said about the overtime, initially 440,000 hours sounds like quite a lot of overtime, but I did quick math, Bob, as you were discussing, and depending on how many people you include in that, it comes to either one and a half hours per person per week or two hours, so your math is quite correct. So putting that in context, it doesn't seem alarming. Nonetheless, I think we should always be on the lookout especially on a trend; for example, if it's a Wednesday afternoon or whatever, maybe there's a good reason, maybe there isn't. So those are some of the questions I think we should try to address next time. As long as we are aware of what's happening and there's a measurement, maybe there can be a downward trend, and like Bob said, it's not a bad thing. If there's no overtime, maybe the corporation or the agency is not running efficiently, because then you have an overabundance of people, so it's not a bad thing.

It's nice that summer is coming, but at the same time, we're going to see more activity of the biker gangs. The communities are quite concerned. There is a perception that biker crime is on the increase, and I think it's fair that we get a comment back as to what you are doing about that.

Ms Boniface: As I introduce Deputy Commissioner Collins, I'd just like to give you a quick background.

We restructured our organization in the summer last year. Deputy Collins became in charge of investigations and organized crime, so he has specific responsibility for organized crime. He co-chairs the Ontario Association of Chiefs of Police's organized crime committee and, as well, sits on the Canadian Association of Chiefs of Police's organized crime committee.

So with that lead-in, I'll let him give you an opportunity to hear what steps we've taken.

1150

Mr Collins: The restructuring and the refocusing that we did in the fall has put myself, certainly, in that seat, and the OPP has refocused in a variety of ways. As the deputy minister mentioned earlier, we have a number of provincial mandates. Not unlike the need for the province to have, for instance, a focused, coordinated response to traffic on major freeways that the OPP provides—those common-sense things—we have a responsibility as a provincial organization to lead multi-jurisdictional issues. It's that mandate that leads us to be in the area of organized crime.

We have been funded over a period of time with a number of units that are provincial in nature. They were each funded as what one would call commodity-based units; for instance, they are like an auto theft team or an illegal gaming enforcement group. All of those were funded because of significant need, and usually focused on groups you could describe as organized crime.

In terms of our restructuring, what we have done is brought a number of those units—and they would include our provincial auto theft team that we have, the Ontario illegal gaming enforcement unit that exists, a provincial weapons enforcement unit, a precious metals enforcement unit in northern Ontario, and a provincial special squad that focuses itself on bike gangs, and has for some time done that—into one section called an organized crime section, giving it some central focus.

Although those units have commodity-based approaches, they also have a certain degree of proactive capacity. It is our intent to harness that proactive capacity, in partnership with a number of other police services that I've been in discussion with, to bring more focus on what are the priorities in Ontario around organized crime. In order to do that, we—and I say “we”; all of the police services in Ontario—have agreed very recently to reinvest even more in their intelligence work in order to enhance the information, but, in addition to that, to put more resources from within into our analysis so that we can identify more clearly what are the priorities.

In terms of bike gangs specifically, sir, there are many issues that happened recently in Quebec and they are an

example of what the potential is for Ontario, particularly with the Hells Angels. What you've seen recently there with the success of a co-operative approach from certainly the three major police services in Quebec was that about 80 of the Hells Angels were arrested there. That came as a result of probably a two-and-a-half-year investigation, but it came about as a result of some significant issues. Since 1995, there were in excess of 150 people murdered in a war between two bike gangs in Quebec. In addition to that, there were another 150 attempted murders. Some members of the public—a young boy was killed; a reporter was shot. That brought a lot of focus to the issue. They were very successful in my view in arresting about 80 of their 140-some Hells Angels members.

But recently in Ontario, in December, with some realignment of the bike gangs that existed here, of which we had about 400 members, we now in Ontario have 200 Hells Angels members. That's the largest criminal bike gang organization in the world. We need to focus on that. As a group in policing, we're beginning to do that and have those discussions, and it's all based on that kind of strategic approach that I just described.

The Vice-Chair: There are two minutes for each caucus.

Mr Richard Patten (Ottawa Centre): I only have one question. This sounds most fascinating and I wish we had spent a bit more time on this, but—

Mr Collins: I'd be happy to talk about it for days, sir.

Mr Patten: My one question, and I didn't hear it answered, Commissioner, was on staff deployment and overtime. I don't see the overtime as a big deal, except I think the auditor's point was the relationship between activity levels of crime, of need, that there seems to be a disproportionate amount of staff deployment and overtime on what appears to be the quietest evening of the week, and that on the weekend, when the demand was much higher, we had less staff and less overtime. So we kicked around whether this was a cultural thing, whether this was historical, whether this was part of a—I don't know.

But you said you had brought in a system now. Specifically addressing the activity levels, how would you respond to that?

Ms Boniface: I think the shift scheduling manual will help address those issues in terms of working through when changes can be made. It allows a lot more flexibility. I think as the deputy said, it allows a blending of schedules so that you are in a position to be much more flexible. As we've said, it only came into play after some long, arduous discussions in November. So it's monitoring, both for us at the executive level and our regional command level, specifically to ensure that the impact of the shift scheduling has the outcome that we desire, and that is in all cases to have as many people working at the busy time as we can.

But the difficulty, if I can just take a minute, when you try to do it province-wide is that there are different needs in Moosonee than there are in our Ottawa detachment

versus what there are in Brant county. So we'll be monitoring it very closely to ensure that what we've agreed to from both management and the association perspective has the outcome we want, and looking to our communities for feedback on whether or not that loops back in appropriately. But we are as interested in it, quite frankly.

Mr John Gerretsen (Kingston and the Islands): I have just one very quick question. Back in the 1980s, when you were bidding on contracts against municipal forces, you underbid on a lot of contracts, because overhead costs were not taken into account and a lot of municipal forces lost potential contracts because they couldn't bid against your system. In bidding for these contracts now, do you take all costs, including a percentage of overhead costs for the main operation, into account? What's your policy on that now?

Ms Boniface: There's an actual costing formula that is put together. It's reviewed by Management Board. It's updated and it's required to be approved every second year. So there's monitoring in place. We're just doing some review now in terms of the whole costing formula, but I think you would see it very much reflective of a combination of both overhead and front-line costs.

The Vice-Chair: Thank you. Ms Martel?

Ms Martel: I'm fine. Thank you.

The Vice-Chair: The governing party?

Mrs Julia Munro (York North): Thank you very much for coming here today. I just wanted to touch on a kind of picture of the future with regard to community policing and the process you've put in place. I wondered whether or not it's premature to ask you if you see the emerging of trends with regard to those initiatives that communities identify. Are there patterns emerging in terms of what the concerns are that you get from individual communities? If so, and if it's not premature to comment on that, does it then bode well in terms of the future for you to be able to develop expertise consistent with the kinds of things you're seeing coming out of individual community consultations for community policing?

Ms Boniface: It's somewhat premature, but I think some of the benefits that we gain out of serving diverse communities are that you get a combination of diverse issues. It's always surprising how many similar issues, and then, equally, different, depending on geography, exist. So what I would anticipate we'll have the ability to do is actually do some matching up across the province.

We also do an environmental scan province-wide to get a general sense of it, but as you would appreciate, given that we do our smaller urban and rural communities, the perspective of what you may get from the general public would be more reflective of the large urban centres.

Our hope would be to have an opportunity to bring some of those together, look at the top 10 for OPP police areas and then do some measurement on how we assess those. But quite clearly, as the deputy spoke about on the issues of organized crime and such, those are new,

burgeoning issues in communities that are a community concern we would not have heard five years ago. So as things are more evident, more in the face, our communities will express greater concern.

The Vice-Chair: Jim, have you got a couple of comments?

Mr McCarter: Just a real quick one. It's a follow-up to Mr Patten's comments. How long do you think it will take your detachment commanders to implement the new manual, just a best guess? Are we looking at six months, two years, three years?

Mr Pilon: I think it's fair to say that as this manual was being developed, there were already some detachments that were reviewing their schedules. Now that the manual is in place—for example, I had discussions very recently with some of our detachment commanders who had been having dialogue with their members. As I pointed out earlier, certainly the intent was to ensure that everyone's needs were met, including the members', because a change in schedule sometimes is a significant shift for them as well.

I guess it's fair to say the dialogue is taking place. We've encouraged them all to review these. We had not, except on an ongoing basis, expected to audit that except on an annual basis. We could go back and push harder on it, but I think you have to understand also that it was a drawn-out process getting this manual in place, where everyone would agree to the terms and recognizing the issues, and specifically our needs versus the members' needs and so on.

We'd like to see if that itself is going to work in the next year, before we push too hard on that issue. I think there's an opportunity here for the members to find the right mix within the detachment and with the community. So we're hoping that will take place.

Mr McCarter: OK. Thank you.

The Vice-Chair: I'd like to thank each of the presenters this morning. Your comments will be very helpful to us in our ridings. I know that you won't be out of a job for a while, and we wish you well.

I guess it's time to adjourn. We'll be back next Thursday morning at 10 o'clock.

The committee adjourned at 1201.

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2001-02 Estimates,
Office of the Provincial Auditor

Comité permanent des comptes publics

Budget des dépenses 2001-2002,
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LEGISLATIVE ASSEMBLY OF ONTARIO

STANDING COMMITTEE ON
PUBLIC ACCOUNTS

Thursday 14 June 2001

ASSEMBLÉE LÉGISLATIVE DE L'ONTARIO

COMITÉ PERMANENT DES
COMPTES PUBLICS

Jeudi 14 juin 2001

*The committee met at 1004 in committee room 1.*2001-02 ESTIMATES,
OFFICE OF THE PROVINCIAL AUDITOR

The Acting Chair (Mr Bruce Crozier): I'll call this meeting to order. The first item on the agenda is correspondence from the Provincial Auditor regarding the 2001-02 estimates of the Office of the Provincial Auditor. It's my understanding everyone has a copy of this letter. It's at your pleasure, but I'll open the floor for any discussion.

Mrs Lyn McLeod (Thunder Bay-Atikokan): I don't mind leading off the discussion. I'm not sure if you would want the auditor to make some comments first.

The Acting Chair: Do you want to make a statement first, Mr Peters?

Mr Erik Peters: If I may, Chair.

Mrs McLeod: If you do, please go ahead.

Mr Peters: The reason I wrote the letter regarding the denial by the Board of Internal Economy of \$609,000 of my estimate of money required for 2001-02 is actually twofold: firstly, to apprise your committee of the impacts of that denial of funds; secondly, to comply with the linkage between the board and your committee through section 29 of the Audit Act. Section 29 states that the Chair and Vice-Chair of this committee shall be notified of meetings of the board to review or alter the estimates presented by the auditor. I so notified them. The Chair and the Vice-Chair were allowed by the board to attend only part of the review in spite of the Chair's request to attend all of it.

As part of my estimates submission, I advised the board that my office is funded at about one third of the average level of the other Canadian legislative audit offices per \$1,000 of government revenues and expenditures. I attached an illustrative extract from my estimates submission to the letter to the Chair.

This means that if my office were funded at the level of the next-leanest audit office in Canada, my office's estimates would be about \$10 million higher than the \$8.9 million I requested. If my office were funded at the average funding level of the other Canadian legislative audit offices—I took out PEI for this one because of its smallness; it would be a tenfold increase if I were funded like PEI so I took them out of this average—I would be

funded at \$27 million, or about \$19 million more than we are currently getting.

In staffing terms my office has fewer staff than, of course, the federal office—they have 430 more staff than I do—124 less than Quebec, 33 less than Alberta and 10 less than British Columbia.

In 1991 my office received nine cents per \$1,000 of government revenues and expenditures compared to 6 cents now, or a drop of about 33%.

I also advised the board that my office's approved staff complement has been decreased over the past nine years, from 115 to 85, or about 26%, while revenue and expenditure subject to audit has increased by 38%. The rate of inflation in that particular period of time has been around 12%, taking 1992 as a zero base. I also attached an extract from our estimates submission to the Chair, and you can see what we call the jaws of death. Our staff is going down and the government expenditures and revenues are going up.

At the present time, how do we react to it? Forty per cent of my office's staff is at the student level, which is the only staff level at which we can offer competitive pay. Even with that, I can only afford 79 staff members at the present funding level.

I had requested an increase over the 2000-01 estimates of \$609,000 principally to fund the hiring of five additional staff members—it was the initial step and actually I had hoped to increase by five over the next three years to get back to about 100 in three years' time; second, to fund pay increases prescribed by the Ontario public service, whose salaries and benefits apply to my staff; third, to fund specialist assistance for the Bruce lease special assignment; fourth, to fund contract staff for auditing the implementation of the new government-wide accounting system, which is something we have recommended for years and is finally getting in place and we need some special contract staff to help us with that; fifth, to fund contract staff to assist in auditing the financing derivatives used by the government—I'm not sure whether you are aware, but the Ontario government uses derivative instruments more than any other government in Canada, including the federal government, and that's a very complex auditing area; sixth, to fund contract staff to meet the tightening deadlines of agency attest audits. The Ontario Financial Review Commission recommended that the public accounts be issued sooner after the year-end than they were before, and that means the agencies of the crown also have to get their accounts

out earlier and we have to audit them earlier, which overlaps between my value-for-money and the attest work that is going on.

1010

My request was denied by the board.

The impact of that denial on my office's operation is significant. Key impacts are:

Reduction of the number of value-for-money audits. In 1993 we reported on 21 such audits; in 2001 we will report on 11;

Not staffing to the full complement of 85 staff members; we can currently afford only 79. In other words, the instruction is really to redirect out of my already very small budget, because I absolutely refuse to refuse my staff raises they are entitled to that their counterparts are getting in the Ontario public service;

Extending the risk-based audit frequency of major government programs; for example:

Long-term care: last audited 1995; approximate program cost, \$1.4 billion;

Highway construction: last audited 1993; approximate program cost, \$1.1 billion;

Colleges funding: last audited 1996; approximate program cost, \$400 million;

Training: last audited 1996; approximate program cost, \$368 million;

Cosmoc drug benefit plan: last audited 1991; approximate program cost, \$400 million.

The impact of the denial on special assignments under section 17 of the Audit Act by the assembly, by this committee or by a minister is generally that we will be able to handle such requests only if they have minimal resource requirements.

Specifically, as outlined in my letter of June 7, my office is not sufficiently resourced to carry out the special assignment requested by this committee to conduct a value-for-money audit of the Bruce lease of the Ontario Power Generation company.

As to the special assignment regarding Cancer Care Ontario, which requires much less resources than the Bruce lease audit, we are looking at a deferral toward the end of this calendar year.

The impact of the denial of funds on the work of this committee is that there will be fewer issues to deal with, thereby reducing the effectiveness of your committee. As to special assignments, my other work will most likely have precedence, as allowed under section 17. That is, we will not be able to carry out this work if it requires resources which we do not have, or if it forces me to drop other audits.

In spite of our low funding, we will continue to do our best in assisting the assembly in holding the government and its administrators accountable for the quality of the administration's stewardship of public funds and for the achievement of value for money in government operations.

In the last eight years we have made over 800 recommendations to ministries and agencies to achieve better value for money. Ministries and agencies to which we

have made our recommendations have taken action to implement them or made commitments to implement the improvements we recommended. In quantifiable dollar terms, a conservative estimate would be that by implementing the recommendations of my office, the government has saved, or would have saved, the taxpayer well over half a billion dollars. In qualitative terms, for example, through the sentinel effect, the contribution of my office to improve administration and delivery of government services is difficult to underestimate.

The impact of the board's reduction by \$609,000 of the funds requested to perform my responsibilities under the Audit Act must be considered in light of the fact that my office is already by far the most underfunded legislative audit office in Canada, and, incidentally, represents the first time, to the best of my knowledge, that my request for funds has been reduced by the committee based on review. In previous times we appeared—at one stage, I appeared with the Chair of this committee and we had the executive assistant of the Speaker come out and say, "Everybody come back next time with a 5% cut," but that was not based on a review. We then did adjust our estimates and that was approved. In fact, as long as I've been the Provincial Auditor, to the best of my recollection, that's only the second time I actually met with the board on my estimates.

As a servant of the Legislative Assembly and of the public accounts committee, I consider the inadequate funding provided as interfering with my office's ability to fulfill our responsibilities under the Audit Act in a timely manner and as counterproductive to good public accountability.

I've brought this before you because I think there is a clear link established under the Audit Act between this committee and the Board of Internal Economy, inasmuch as the Chair was invited. With that, I'd be happy to entertain questions.

The Acting Chair: Thank you, Mr Peters. We have those comments and the letter.

Thank you, Ms McLeod, for waiting. I'll open the floor for discussion.

Mrs McLeod: Is it possible, first of all, to obtain a copy of Mr Peters's presentation to the committee?

Mr Peters: I have provided an extract. Are you asking for the whole thing, the one I just read?

Mrs McLeod: The one you just read, yes.

Mr Peters: Yes, speaking notes. There are some, not quite delivered as written.

Mrs McLeod: It will be on Hansard, but sometimes Hansard takes some time before we receive it for committee.

Mr Peters: I'll arrange that.

Mrs McLeod: The alternative would be to see if we could expedite the Hansard transcription.

The Acting Chair: Discussion?

Mrs McLeod: I have a second question related to this, and that's that Bill 46 is before the House now. I think I've got the right number. It stands in the name of the public accountability act. My question is whether that

bill—I just don't know—provides for public audits of public institutions, like hospitals, that are not now subject to audit? Is that part of Bill 46?

Mr Peters: I can help you out. The bill I've seen provides for reviews of transfer agencies initiated by the Minister of Finance. It stands as a separate act from the amendments of the Audit Act that this committee has been dealing with, and which incidentally are provided to the Minister of Finance as well. There is an awareness from my discussion with the Minister of Finance that those two are separate.

Mrs McLeod: I appreciate that. I had been told by someone that they believed that Bill 46 opened hospitals and other public institutions that are not now subject to audit, because they're not directly run by government, to the Provincial Auditor. So that's the explanation I needed. I think it's fair to say that with that provision in Bill 46, it's entirely possible that requests of your office could expand significantly if the intent of the public accountability act is to be carried forward, that all of the broader public sector institutions are to be subject to greater scrutiny. That's part of my reason for being particularly concerned with your letter and the concerns you've made very clear about the budget situation of your office.

My other concern is as health critic and it is twofold. One is the long-term-care situation and the fact that it has not been audited, I believe you said, since 1995. That's an issue that is causing considerable concern. I think there would be an expectation—not a hope but an expectation—that there would be an examination of issues around long-term care. The second issue for me is clearly the resolution, which this committee supported, that I put forward earlier this year to have a value-for-money done of the cancer care clinic that has been set up privately. I am deeply concerned when I hear that the lack of funding—and you did indicate at the time that the committee passed that resolution, Mr Peters, that it would require funding to be able to carry out the special audit. I'm concerned that the denial of that funding by the Board of Internal Economy will result in a deferral of that audit until the end of the calendar year. The contract for the private clinic will expire at about that time, there will be a question of whether or not it should be renewed, and if the audit is not completed well before that, then the purpose of having a value-for-money audit and subjecting the question of the private clinic's financial operation to a comparison to the public sector will be simply lost.

So I want to very strongly express a shared concern about the reduction in the budget request you've made. I would like to hear some discussion from the committee, but it would be my intention to put forward a motion asking that the Board of Internal Economy review the auditor's request again, review the budget request with a view to addressing the inadequacies of the Ontario audit budget in comparison to every other province in the country.

1020

As well, I would move that there be consideration given to the special audit requests that have been made

and are going to continue to be made of the auditor. I don't believe special audits that are requested by this committee or by the government should be done at the expense of the ongoing audit function of the Provincial Auditor's office. I think there has to be a recognition of supplemental funding for special audit requests.

The Acting Chair: Ms McLeod, have you just given notice that you will make that motion, or would you like some discussion?

Mrs McLeod: I'm prepared to table a motion, but I don't want to put this into a formal setting if there is a willingness on the part of the committee to draft something in common.

The Acting Chair: OK. Ms Martel.

Ms Shelley Martel (Nickel Belt): I have two issues that worry me. I'm not sure how we're going to deal with either of them, although I have a proposal for one.

The first is the general problem of the ability of the office to deal with its work. I think a drop from 23 value-for-money audits in 1992 to 11 some 10 years later is a significant drop. It conflicts greatly, I think, with what the government is trying to do now in terms of accountability, both in terms of all of the words that came out around accountability of the budget, but secondly by the mere fact that Bill 46 is coming forward and will require much more stringent procedures for any number of transfer payment agencies. I think the contradiction between the government moving hard with respect to transfer payment agencies and then having a situation where the auditor, who is independent and who is elected by all of us, does not have the funds to do the value-for-money audits of even each ministry is a problem.

I'm not trying to make it a partisan issue. I think we need to consider that because I think the auditor has—and this committee has seen it—offered some really valuable recommendations that have forced the government to make some changes. I think about what happened around Andersen Consulting and those changes. Were it not for a review of that, the government would not have gone back and made the changes they did which essentially saved taxpayers' money. I think we need to deal with that as a committee and I hope we can come to some consensus around that approach, which would be an approach, I hope, to increase the funding.

The second issue clearly for me has to do with the OPG-Bruce deal. Given that I moved the original motion on October 5 for the auditor to look at this special assignment, and I did it, as I said at the time, specifically in light of the comments the Premier had made on July 14, two days after the lease arrangement was made public, which were that he was quite open to have a committee look at this deal, that he felt quite confident that it would uphold public scrutiny. This committee, after two weeks and four hours of hearings, finally came to a motion that called on the auditor to do this special assignment once the licences from both the OEB and the Canadian nuclear safety board were obtained, which they have been.

I read through the committee hearings for both of those weeks again last night and can clearly point to a

general agreement that this should be done. That was made clear by both Mr Maves and Ms Mushinski, although Ms Mushinski moved an amendment to my motion at the end which delayed the assignment until after those leases were obtained.

I would like to see how the special assignment can continue to go forward, because this is the single biggest lease of a public asset in the history of the province and I think it deserves some public scrutiny to make sure we have value for money. So I have some questions and then I have a motion.

My first question would be to Mr Peters. If I'm correct, the estimates you gave to the board were general annual estimates for your office.

Mr Peters: That's right.

Ms Martel: Was it done under section 23 of the Audit Act?

Mr Peters: Under section 29.

Ms Martel: Not under section 23.

Mr Peters: We also built in a piece under section 23.

Ms Martel: Did you file actually two separate estimates?

Mr Peters: No, the overall estimate is filed under section 29 of the Audit Act, and within the estimates itself we identified specifically \$85,000 that we required to be funded under section 23; in other words, specialist assistants to my office to deal with special situations such as—

Ms Martel: Can I ask, when you appeared before the board, was there much discussion about the budget, and what was the nature of the discussion?

Mr Peters: The first part was actually an acknowledgement that—they said, "Let's put this aside, that you have the least funded office in Canada," but then asked me for essentially the elements that made up the dollar amount, the increase that I'd asked for. I gave them the explanation which parallels the explanation I gave to you today.

Ms Martel: OK. So there was a mix in that estimate of ongoing operating funding and a request for an increase, and one-time funding for the special assignments? There was a mix of both for them to consider.

Mr Peters: That's right, and that was explained to the committee. As I explained to this committee as well, at the time when it was debated, my decision to proceed was depending on getting the necessary funding from the Board of Internal Economy.

Ms Martel: OK. So you identified about \$85,000 as the request to have some special expertise to carry out the OPG-Bruce?

Mr Peters: Yes. We identified actually that it would be anywhere between \$50,000 to \$200,000, because we weren't sure, and we had picked \$85,000 just to put a number on the table at that time.

Ms Martel: If you got \$85,000, would you be in a position to undertake the assignment?

Mr Peters: No, because I had also built in an additional five staff to get me up, and that's where the additional problem is. We also needed other contract staff to

replace on other audits, to pull the people off. As I think I pointed out to the committee at the time—I think Mr Maves asked the question of me whether I would have to drop other work. The idea was that if I got what I asked for from the Board of Internal Economy, namely the \$600,000, I would be relatively OK.

Maybe I can add a footnote, if you'll allow me. I have just read with great interest the amendment to the audit act in Saskatchewan which deals with this issue in a rather unique way, which might be of interest. That is that the auditor builds in a fund for special assignments, and if the fund is not used, then it's of course returned to the treasury. So that's one way of another Legislature dealing with the particular problem of special assignments.

We are dealing with it through the statutory appropriation.

Ms Martel: Could you give the committee a more specific idea of the funds you think would be necessary to undertake the OPG assignment?

Mr Peters: At this point I don't think we have sufficient precision, because the key meeting to determine that is being initiated, actually is set for tomorrow morning. We're meeting with senior executives of OPG to discuss the Bruce deal and the documentation and what is available. We have done some preliminary work, but not sufficiently at this point to formulate actually an estimate of the dollar amount that is required.

Ms Martel: So would it be your opinion that after you have the meeting with the senior OPG staff, which I'm assuming is clearly on the assignment, you could give the committee a better idea of the funds you think might be necessary?

Mr Peters: We hope so. It will take up to about a week afterwards to put everything together. This is just identifying the document, rather than providing the document, so there's a little bit more look-see that we have to carry out.

Ms Martel: But it could clearly come forward as a number—we don't know what the value of that would be—as a one-time request to deal with this assignment that the committee has directed you do?

Mr Peters: We could.

Ms Martel: OK. Then unless there are some other questions, I ask the indulgence of the committee for a moment to consider a motion in this respect. I think that section 23 of the Audit Act, which is the section where the auditor can make a specific request for one-time funding, is an area that we should pursue.

If I can just give the committee an idea of what the section says, I'm quoting, "The auditor from time to time may appoint one or more persons having technical or special knowledge of any kind to assist the auditor for a limited period of time or in respect of a particular matter and the money required for the purposes of this section shall be charged to and paid out of the consolidated revenue fund."

I've drafted a motion I'd like to share with members of the committee, which would do the following. I'll read

it into the record. There's a correction that's not on the sheet that's coming to everyone. I'll read it into the record and then give you the correction so you can print it in on your own copies.

1030

I move that the public accounts committee directs the Provincial Auditor to return to the Board of Internal Economy as soon as possible to seek special, one-time funding, as per section 23 of the Audit Act, to enable him to carry out the committee's direction established on October 12, 2000, that he "examine all details of the leasing agreement between Ontario Power Generation (OPG) and Bruce Power Partnership for the Bruce A and B nuclear facilities, to determine if the deal offers value for money for Ontario taxpayers, and to report back to the public accounts committee with his findings and recommendations as soon as possible."

The committee members will recognize the section that's in quotes. That comes from the motion that was moved by Ms Mushinski at our meeting on October 12. The first part of that motion is missing, but the first part was the requirement that the licensing be completed between both the OEB and the Canadian Nuclear Safety Board. I dropped it because those requirements have been met. The rest appears exactly as was the motion the committee ended up passing. The reference to section 23 of the Audit Act would go after "one-time funding," at the end of the second line, if you want to add in "as per section 23 of the Audit Act." That's a very specific section under the Audit Act that speaks very specifically to one-time funding, which is what I would be urging the committee to have us recommend the auditor ask for.

The second issue, the ongoing operating funding and the new staff, is a significant one. I'd like us to deal with that too. But this specific request refers only to the additional contract staff that would be required to carry out this assignment.

The Acting Chair: Ms Martel, you may be aware of this, but the motion as you have read it is out of order, as the standing committee on public accounts does not have the power, nor is it within its mandate, to direct the auditor to return to the Board of Internal Economy.

Ms Martel: I think the wording we got from the clerk yesterday was "recommend." I apologize; you're right. We checked it with Tonia and there was supposed to be a change. So we had, "The public accounts committee recommends...." My apologies.

The Acting Chair: That has been so moved. Discussion?

Mrs McLeod: I've had my motion circulated. To keep the discussion on Ms Martel's motion, she will recognize that my motion deals with the broader budgetary request. I would hope the committee would deal with the broader budgetary request. I would also hope that if there is to be a direction from the committee to deal with the special audit request, we could either include or have as a separate motion the request to deal specifically with the other recommendation of this committee, which was on the cancer care clinic.

Shall I move my motion, Mr Chair, as well?

The Acting Chair: No, we have to deal with the motion that is on the floor.

Mrs McLeod: Then may I ask Ms Martel, would you care to include it or would you prefer to see the cancer clinic as a separate motion?

Ms Martel: Perhaps the auditor can give the committee some idea. If you got a special allocation of funding, could you carry out the CCO audit as soon as possible as well, versus November and December, and would it be appropriate then to add an additional staff salary if that is what it will take to ensure that both assignments are carried out? I don't know what you had in mind in terms of dealing with the Cancer Care Ontario audit.

Mr Peters: The Cancer Care Ontario audit, as I pointed out, requires a lot less resources and a lot less specialist assistance in this regard. I do appreciate the motion to deal with the special assignment. I also would like to plead for the committee's overall support to deal with the overall funding shortfall that my office is facing. I'm specifically pointing out to you that it is not that we cannot do our job in a professional way, but specifically the timing is now very much of importance, because in the past we have been able to give early notice to the Legislature of problems, like we warned of situations like what ultimately turned out to be Walkerton, for example, in 1994. In our 1995 audit on long-term care, we pointed out the linkage of planning long-term-care beds with the demographics of the province; in other words, the aging population. So we have been able to give early notice in a whole raft of instances, and that facility is also going down.

So I appreciate the support to conduct the special examinations, but I also would plead for support really, in a way, for the overall situation.

The Acting Chair: What I'd like to do is determine what the motion is. The motion has been made, and I think that unless it's going to be amended, we should discuss the motion.

Mr Bart Maves (Niagara Falls): Chair, I'm sorry. I have two motions in front of me and they're different, so I don't know—

The Acting Chair: The only one that's been read is the one that's typed.

Mr Maves: What's this one?

Mr Dave Levac (Brant): To be moved.

The Chair: That may be moved, Mr Maves.

Mr Maves: I apologize. They were both put in front of me at the same time, and I wasn't sure which was which.

Mrs McLeod: I didn't move mine, in the event that we could reach some consensus on what the appropriate motion would be.

Ms Martel: That's what I'm still trying to determine. I'd be quite happy to add something to mine. What I don't know and what I need the auditor to answer is what you need to do the CCO audit in a timely fashion versus November or December. Another contract staff person to

do that work: is that what you need, on a one-time basis? If it's not, then I won't put it into this particular request, because this request is clearly talking about one-time-only contract staff.

Mr Peters: Quite frankly, I have some difficulty in answering that question, because what is happening is that my staff, after the Cancer Care Ontario audit, is very familiar with Cancer Care Ontario. If I hired outside contract staff now, there would be quite a learning curve that still would take time to get involved in that. What I would prefer to do is really to use existing staff and supplement existing work with contract staff where that can be more easily done.

For example, the competing problem I'm facing right now is that we have to do 40 attest audits, and it's easier to contract for attest audits than for special value-for-money audits such as the one on Cancer Care Ontario. But to say—

Mr Maves: Sorry to interrupt. Forty what kind of audits?

Mr Peters: So-called attest audits, where we opine on the fairness of the statements—

Mr Maves: OK. I just didn't hear what you had called them.

Mr Peters: If you were to say to engage the contract staff to supplement the office in a broader sense, I'd be fine. If it were to hire contract staff specifically only for the CCO audit, I would have a problem with it.

The Acting Chair: Shall we move on in the discussion on your—

Ms Martel: Yes, but I think we should keep the items separate then.

The Acting Chair: Discussion on the motion by Ms Martel?

Mr Levac: Having heard what I just heard, my specific question is, as you've outlined, Mr Peters, the \$608,000 is included in the request for doing the special audits. Did I hear that right?

Mr Peters: The special audits are—

Mr Levac: Are inside of that.

Mr Peters: Yes.

Mr Levac: Having done that, is there a process that takes place that if it's one-time funding to do this, then if Mrs McLeod's motion passes, there would be some type of mechanism that would separate that, where if we passed this motion, then that special funding would be taken out of the \$608,000?

The Acting Chair: I just remind you that Mrs McLeod's motion is not on the floor, but you do have it in front of you.

Mr Levac: If, and I would use the word "if," this motion is put before us and we decide to go back and say to the Board of Internal Economy, "We really think you need to give us the \$608,000," and let's say, surprise, surprise, they give us \$608,000, does that money get removed from that audit that is now being put before us, the special amount of money that's being asked for, one-time funding? Am I making myself clear?

Mr Peters: I would have to think about that question. I'm not 100% clear on the question.

Mr Levac: OK. It's going to cost money to do this, one-time funding.

Mr Jim McCarter: If we got the \$608,000, we would be able to do the hydro funding. Part of the \$608,000 is a recurring thing for additional staff. Part of it is a statutory item to hire people just for the hydro audit. That would not be recurring. In next year's budget we would take that back out because we would not need it. It's a bit of a mix.

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Mr Levac: If the other motion comes, we'd be covered off by that as well.

Mr McCarter: If we had approval for the \$608,000.

Mr Levac: I'm assuming that Ms Martel is not assuming we are going to get \$608,000 and that we are looking for that amount of money immediately so we can proceed with what you're requesting. Thank you for that clarification.

The Acting Chair: Further discussion on the motion?

Mr Maves: I have a series of questions for the auditor. I hope he doesn't mind. Part of this stems from your letter and your charts and whatnot.

Mr Peters: Sure.

Mr Maves: How much of your budget goes to salaries and benefits?

Mr Peters: Let me get the exact numbers for you. Jim, do you want to answer that?

Mr McCarter: I've got the numbers. Salaries and benefits: we had asked for \$6.7 million out of about \$8.9 million.

Mr Maves: Yes, but what are the actual numbers for the past year, because that was your request, right?

Mr McCarter: Yes. Last year we had, approved, \$6.4 million.

Mr Maves: Out of \$8.3 million?

Mr McCarter: Out of \$8.3 million for salaries and benefits.

Mr Maves: What's that on a percentage basis? Come on, you guys are accountants.

Mr McCarter: We are accountants. Don't ask us.

Mr Peters: Very close to 80%

Mr Maves: It's 80%.

Mr Peters: Roughly.

Mr Maves: What is the other \$2 million?

The Acting Chair: It is 77%.

Mr Maves: I thought it was a little—so the other 23% goes to—

Mr McCarter: Do you want the high-level breakdown?

Mr Maves: Sure.

Mr McCarter: Transportation-communication, about \$170,000; services, which is largely rent, \$1.6 million; supplies and equipment \$123,000; we have a transfer payment to the Canadian Comprehensive Auditing Foundation of \$50,000; we have statutory appropriations of \$294,000. Hopefully the math is right and that should add up to \$8.9 million.

Mr Maves: Can you tell me what statutory—

Mr McCarter: Statutory appropriations, \$294,000.

Mr Peters: There are two parts. There are payments made under section 23 and under section 5, which are out of the consolidated revenue fund, which we include in the estimates. They are paid out of the consolidated revenue fund and not necessarily by vote.

Mr McCarter: The reason we put the Hydro in there—we don't really have a good idea what the specialist expertise for the Hydro will be. It could be \$200,000; it could be \$50,000. But if we get approval as a statutory item, even though it is approved at \$85,000, my understanding is that if it costs \$125,000, we are still allowed to spend that amount of money, if it's approved as a statutory item.

Mr Maves: Who do we pay rent to, a private sector company whose building you're in?

Mr Peters: Yes. We just renegotiated, incidentally, on very good terms.

Mr Maves: You said you hadn't allowed any staff salary increases over the past few years. What are your staff salaries, out of curiosity? Yours is public, I think. I'm just curious what most of the staff—

Mr McCarter: Basically, it's required under the Audit Act that our staff are at the classification levels the civil service comes under. Our managers are at that classification; our directors are at that classification; our auditors and our supervisors are at similar classifications. Our students are under contract, so they are at a lower amount. Essentially we follow the government salary scales.

Mr Maves: Could you give me a rough estimate? I'm just curious. There's a lot of talk about salaries around this place.

Mr Peters: Let me be very clear. What we've built in is fairly low. For the SMG level—that's the senior management group—it is a little bit higher, but below that, it is running only around something like 3% max.

Mr McCarter: Essentially we pay whatever is approved for the government, say, for SMG merits; we adopt that percentage. Whatever is approved for salary increases for the lower levels—

Mr Maves: Can you give me numbers, though? I don't know what they are and I don't want to have to go away and look. I'm just curious.

Mr Peters: Bart, if I may answer that question in another way, my staff, once they graduate, get hired away like hotcakes for tremendous increases outside, and even within, the public service.

Mr Maves: I don't doubt that and I'm not in any position where I want to argue.

The Acting Chair: Are you looking for what an average CA on staff would make?

Mr Maves: No, there are three levels. I'm just curious what their salaries are: senior management group managers, directors, supervisors.

The Acting Chair: Can we give a high and low?

Mr Peters: Yes, giving a rough range—Jim, correct me if I'm wrong—the student range is anywhere from

about thirty-odd thousand to about \$45,000, somewhere in that range. The audit senior and supervisor range would go anywhere from about \$55,000 up to about \$75,000, somewhere in that range. The SMG ranges, which I don't have in my head right now, are actually the ones approved by order in council which start at about—

Mr McCarter: There was a recent increase, but they used to range from about \$75,000 on up to an assistant deputy minister, which is about \$130,000. Basically our managers are paid the same as a manager in the civil service, our directors are paid the same, and as the assistant auditor myself, I'm equivalent to an assistant deputy minister position, basically whatever those salary ranges are; but they would be about—I'm guessing—maybe \$80,000, \$95,000, for those two levels.

Mr Peters: Does that answer your question?

Mr Maves: Yes, somewhat.

Mr Peters: Well, go ahead.

Mr Maves: Part of the charts you gave was number of staff going back to 1990-91. I'm curious to note your staff went down by 20 from 1990-91 to 1995-96. What was your actual budget in 1990-91? I don't want every year, but representative. From 1990-91, what was it, and what was it in 1994-95?

Mr McCarter: Mr Maves, in 1992 it was \$8.1 million.

Mr Peters: If I may add a footnote to that, according to statistics we have just received from the government, using 1992 as a basis, the consumer price index has grown about 13% since then.

Mr Maves: Do you have any other years? You've got 1991-92.

Mr McCarter: Yes, I've got all the years. In 1995 it was \$8.1 million; 1999 was \$7.7 million.

Mr Maves: Between 1991-92 and 1995-96 it must have dipped down, because you gave up 13 staff.

Mr Peters: Yes, very much so.

Mr Maves: So in this decade, what did—

Mr Peters: In 1997 it dropped to about \$7.1 million, \$7.066 million, actually.

Mr Maves: In 1992-93 and 1993-94 you lost staff, so I'm assuming you—

Mr Peters: That's true, we lost staff. There was a reduction of about \$100,000 over those years, from \$8.149 million in 1992 to about \$8.096 in 1994. That was also, if I may remind you, the time of the social contract. That impacted on us.

Mr Maves: So you went down to \$7.7 million in 1999-2000, and last year you were at \$8.3 million.

Mr Peters: That's right.

Mr Maves: One of the members opposite mentioned, and I was unaware of these numbers, that you did 23 audits in 1992-93 and 11 in 2000-01. Off the top of my head, I would imagine the gross number of audits a year is dependent on a lot of things. You could do some audits that take all kinds of resources and in that particular year you do fewer audits, and in other years you do a lot of audits, where each one takes fewer resources. Does that

average out through the years, and is the number of audits a fair way to look at what the office is doing?

Mr Peters: That is a very good question. First, we have brought the number before you because this raises a number of issues I can bring before you. Why the reduction now is significant is that to cope with the low funding of my office, 40% of my staff now don't have a designation. They're at the student level. They are out of university and they are coming straight in. That puts a tremendous stress on my senior staff, because they have to simultaneously do very complex work and at the same time do the supervising. For example, it used to be that a manager could handle at least two value-for-money audits in the past. Now because of the staff mix we have, we had to reduce that to one, because they can handle only one. The director in my office, who could previously handle four, is now handling two. That is one of the most influential factors in this particular situation.

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Just to put another perspective on it, the government is, to a great extent, engaging outside consultants currently to do the kind of work that we are doing. They're doing it at incredible rates. For example, we found in one audit that, just to prepare a business case, the ministry paid a consulting firm \$1 million. The work is very similar to what we are doing. You can see the disparity. To answer your question specifically, the most significant influence, to put a positive spin on it, is what we called the rejuvenation of our office, by hiring more at the lower levels. But that puts a tremendous stress on the office and reduces the number of audits we can do.

Mr Maves: In the early 1990s, were you averaging 20-plus audits a year and now you're down to, on average, 11 or 12 audits a year?

Mr Peters: We were in about the 18 to 20 range at that time. Now, as I said, we have had to extend the audit cycle.

Mr Maves: Do you have an average over the past six or seven years of about how many audits you're now doing?

Mr Peters: I think it is almost a steady decline, like 15 the year before. It has gone down. You are quite right also in your question. That's where it is tough to answer, because of the mix of the audits themselves. As I pointed out, Cancer Care Ontario can be done with fairly minimal resources while other audits—for example, if we audit forestry management, it takes significant resources, it takes travel time, it takes our staff way up into the north country and that sort of thing.

Mr Maves: Last year when you got a \$600,000 increase in the Board of Internal Economy, is the discussion around that on Hansard or was that in camera?

Mr Peters: You mean at the board?

Mr Maves: Yes.

Mr Peters: The Chair was there. We were asked, actually, the very question that you asked here: if you do this work, do you have to drop others? The question was raised by the board of whether this committee was aware that if we took the assignments, I would have to reduce

other work. The answer was yes, you were aware, because we made you aware in the discussion. That was the extent of the discussion. What happened afterwards about that answer I don't know.

Mr Maves: The numbers I was given were that you had \$7.7 million in 1999-2000 and this past year you had \$8.3 million. So you had a \$600,000 increase in your budget. What was the rationale on the Board of Internal Economy for that, just because they had realized that over a period of time your budget had remained stagnant and actually dropped in 1991-92, so it was a general realization that it was time for an increase in the auditor's budget, or was there some specific reason between 1999-2000 and 2000-01 they gave for giving you that increase?

Mr Peters: Some of it is a fairly mechanical and fairly complex issue that arose out of the fact that in certain years they decided that certain pension contributions, for example, on behalf of the employees would be made out of a central fund rather than individual budgets. Then we were asked to fund it again. Now we are asked to reduce it slightly because we are not giving that money. What I mean by that is that the pension contributions to the pension plan, to a certain extent, were handled by Management Board and not by the individual entities. That has been one of the major factors of the increase. When that was restored, we have to fund it again. I would be less than forthright with you if I didn't mention that also in the current year there is again a reduction for it of about a quarter of a million dollars, which helps us greatly in giving merit increases to our staff. But that's pretty well used up.

Mr Maves: So is that discussion before the Board of Internal Economy? You're right: budgeting is a fairly mechanical and complex thing. I'm just curious if that discussion surrounding your budget is something that's done in camera, or is that on Hansard?

Mr Peters: Now I can answer your question fully. In the eight years that I have been in office thus far, I've only discussed my estimates with the board twice. In all other cases, the board made its own decision and actually gave us the money that we had asked for. This is, as I said, the first time that I met with the board. I made my presentation, and I was faced with the reality that the board decided to reduce my request.

Mr Maves: Turning to another question, when I moved my private member's bill several years ago to increase the scope of the auditor's authority to do audits of hospitals, colleges, universities and so on, I remember at the time having some discussions. I had some of my colleagues say, "That scares me, because how big has the auditor's budget become?" I said, "No, I've had discussions about that, and what the auditor's office would do is, they have a basket of 15 audits that they do in any given year; they would then just broaden the basket of things that they could audit." So while they do 15 audits of 30% of government spending or numbers like that, where they look at internal programs of each ministry, they could now use those same resources to do audits of a bigger basket of items. They could go into the University

of Toronto or one of the hospitals and so on and use those resources to do audits of those other institutions.

Now, when you broaden that basket, over time I can see us having the government of the day saying they need some more resources. But I think everyone was on record and was clear to me saying it wouldn't necessarily mean that you would have to double the budget; that you would now choose to do different types of audits. So when Ms McLeod raises the appropriate question about once the Audit Act is expanding—because much to my delight and, I know, yours and several other people's, Mr Gerretsen, who is normally our Chair, also had a similar bill last year, I believe, to expand the authority of the auditor to do audits in more institutions. That possibility of doubling the budget or changing the amounts of audits: that is still the case, in your mind, right? When the government of the day passes that bill and we open up access to you to all of those institutions that we transfer money to, you will just move resources and decide to do different audits than you've been doing over the past 10 years. Will that be a large part of how you handle those new assignments?

Mr Peters: On the mechanics, you're right: the audit universe will be enlarged and we will continue to carry out risk assessments of the individual programs or entities being funded. But what I'm pointing out to you now is that because of these funding cuts and the relationship that is funded, I cannot see my way clear any longer such that I can really say that I would serve the Legislature well by conducting only 11 value-for-money audits out of a tremendously enlarged universe that is there. Some additional funding will be necessary.

Just to give you some idea, I have brought these figures forward with a great amount of concern for my legislative colleagues across the country, because virtually every auditor across the country has gone forward with asking for increases in their funding, far larger than mine in many cases, and in some cases have already received them; others haven't because the Legislature has recognized the complexity of the work, alternate services delivery and all other features that have to be brought in.

So I would say to you that we're delighted that the Audit Act has finally come to the forefront. We are also encouraged to some extent by the Public Sector Accountability Act, which was introduced immediately after the budget, but that public sector accountability will not allow us to do our work with fewer resources. I would suggest to you that at the current funding at six cents per \$1,000, I would not be in a position, without additional funds, to handle that audit universe.

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Mr Maves: Well, ultimately the Board of Internal Economy will make that call, right?

Mr Peters: Yes.

Mr Maves: We all are aware of that, but in discussions we've had, and as I put forward my bill and Mr Gerretsen put his and in the government's understanding of what happens when they open up the Audit Act, it's been clear all along that everyone says, "Well, you'll use

your same resources to do audits of a greater universe," as you put it, "of potential audits." So that is the case, and I understand that you're saying you will be able to do a much better job of that if you have a larger budget. I understand that, but I just wanted to make it clear that it's not that all of a sudden you need a whole new budget to do all of these new audits, that there's actually going to be movement from your current budget to do audits of a greater universe.

When we had discussions—and I don't even need to look, starting off the bat, in Hansard. When this committee had discussions about the Cancer Care Ontario contract audit and the OPG audit, very clearly at the time we had discussions—and I pulled the Hansard from the OPG discussions. I was very clear at the time in saying to you and the committee that my dilemma with that—although I was fine and we went on the record right away as supporting in principle the audits that were put forward by the opposition, we had the discussion at the time, a very thorough discussion, that the problem with this is that you, by your act, choose what to audit, and you have to have some freedom to do that. So I asked at the time, if you do these audits, where do the resources come from? Do you divert them from existing audits or do you have to get new money? We were very clear around this table about that discussion in that if it required new money, then you'd have to go to the Board of Internal Economy, and that's indeed what you've ended up doing.

We've had this discussion, I say to this committee. One of my fears, actually—and I wonder if you have a similar fear—is that the more often this committee, or ministers who have the authority, request that you do an audit, the more often we come forward and ask you to do audits, aren't you a little bit worried about your independence? I can see the possibility of a deepening politicization of your office, and I think all parties would want to avoid that.

Mr Peters: That, I think, is an excellent point, and that is why I have taken the very unusual step of bringing my estimates before this committee. Yes, I do have that concern that effectively—if you take it ad absurdum, it means that really a government, because it has a majority on the committee—and I'm not saying that to discuss any stripe; I'm using small-g government—could essentially load up my office to such an extent with special work that I won't be able to do any of the work that our risk assessments show should really be done. That would be an absurd situation and has never arisen, but we are getting closer to this when I have to handle special assignments. And we even have to enter into the debate, do you have to drop something on the other end if you do this, because we do a very careful work in our risk assessment. The Chair and I, for example, have had lengthy discussions where he thinks it's worthwhile of me coming forward to the committee and really discussing with you how we select audits, because we do it on a very strict regimentation of risk assessments to determine the audit frequency.

What I am concerned with now is that because we are funded so low, yes, I share that fear, I share that concern with you that I could get to the point where a significant part of my resources does special assignments, without doing the work that really risk assessment would dictate we should do.

Mr Maves: Even if you had, though, a doubling of your budget, one of my concerns is that the opposition parties or a government party could continue to ask you to do special assignments because they believe that the results of your special assignment will suit their political purposes. That makes me nervous, because I think that runs against the spirit of the intent of your office: that you have independence to choose whom you audit. The more this committee, the more perhaps ministers, decide to ask you to do certain audits, at the end of the day—I'm not going to put a motive to my colleagues on the other side, but perhaps their motive for the OPG might have been, "Wow, we think the auditor will come out and say this is an awful contract, so we want to be able to slap the government with, 'You signed a bad contract.'" Maybe the government will want to have you do an audit of an institution so that it will justify us taking over a transfer agency or something like that. It really makes me nervous that we could be headed down that road of totally politicizing your office. I'd be surprised if you didn't share that concern.

Mr Peters: I share the concern. As the percentage of resources required to do special assignments increases, to that extent, yes, there will be a certain degree of politicization. The more we are directed, the less independent we get.

Mr Maves: Right.

During the debates that we had October 5, 2000, in Hansard, and I'm referring specifically to some of the discussions we had about asking you to do the audit on OPG, I said, and I'll read from page 267, "... the committee assigned a certain number of assignments that competed with the assignments that the auditor's office wanted to do and the Board of Internal Economy said, 'No, you can't have any more resources,' and so the auditor had to choose what took precedence?" The Chair then said, "I think the section is quite clear on that.... He has to do his regular work first." You said, "That's right. It says that these 'assignments shall not take precedence.' That means that the assignments that I have determined I should do take precedence."

Mr Peters: That's right. That's what the section reads.

Mr Maves: Right? OK. Then you said, "There are two ways of dealing with it: additional resources," which is what you've gone to the Board of Internal Economy to do, "or deferring in terms of time." So on the OPG audit, have there been any discussions with regard to doing the audit but deferring it in terms of time?

Mr Peters: In this particular case, we felt that actually the deferment had already occurred through the motion by making the item dependent on the licensing arrangements being in place. So at this point a certain degree of deferment had already taken place. Remember that that

discussion took place in October. We submitted our estimates in about March, I think, to the assembly. So the discussion has taken place and we have, because of the decline of the resources that we identified to the board, decided that it was not a matter of deferment in time; it was a matter that the resource requirements would be so strong that they would interfere or they should not take precedence over my other duties.

Mr Maves: But you had a choice of two routes to go. You went the one route to ask for more resources. Members opposite said that doing the audit, once the contract is agreed to—the contract's already been signed and agreed to, so you're not going to be able to change it, so what's the difference if you do the audit this year or next year? The contract's there.

McLeod: The contract expires in a year.

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Mr Peters: No, that's Cancer Care Ontario, but the Bruce deal is at 20 to 30 years.

There is a concern as to what our audit will actually accomplish in that regard. The CBC piece that I already distributed to the committee cites a U of T professor saying that the deal is a financial disaster. I don't know whether it is or not—we haven't looked at the examination—but that is what was broadcast on the Canadian Broadcasting Corp.

So how much difference our audit is going to make is how this committee will ultimately handle the outcome of our audit, because we are working together with this committee on these things. We can come to our conclusion and then we bring it forward as a special assignment for the committee to deal with. But to come back to the point, we have decided it makes such a strong demand on our resources, which is even stronger because we have been refused the money to do it, that I came forward to you and said I couldn't do it.

Mr Maves: You further said, on page 267 of Hansard—we talked about how you would go about doing the audit on the OPG contract, and in the discussion you brought up subsection 9(3), which states that you would first be—I don't know if it's required, but your first approach is to approach the current auditor at OPG and say, "What do you know about this particular transaction?" and that auditor shall provide you with "all working papers, reports, schedules and other documents in respect of the audit, or in respect of any other audit the corporation specified in this request." On page 268 you said, "Why reinvent the wheel if they have already done some work?"

So the discussion centred around the fact that before you would decide on whether or not you would put staff to do an audit of OPG, you would work with Ernst and Young, which is the auditor of OPG, and get all the reports, working papers, schedules and so on to determine whether you even needed to divert your resources to do that audit. Has that work been completed?

Mr Peters: I've had contact with them, but because Ernst and Young's work is confined to issuing an opinion on the fairness of the financial statements, it is my under-

standing that there is no specific work done along the nature of the assignment we were given by this committee.

As a result, I deferred discussions with Ernst and Young until I met with the senior executives of OPG to give us a layout of the whole transaction. From that we then would determine what information we require from Ernst and Young. I talked to the senior partner from Ernst and Young and so have advised them, and that was OK. So we have communicated on it, we have continually communicated with them, but we want to find out what all the documents are that are available, and then determine which of these have actually been assessed by Ernst and Young and which have not been assessed, as part of their attest work on the job.

Mr Maves: Why would you make that request to the Board of Internal Economy before having those conversations with the senior executives at OPG and making the determination that there were not sufficient papers available to you?

Mr Peters: As we said, we had to really estimate only. That was a very preliminary estimate, but it was also because of the nature of the motion, which said we should not commence any audit work until the licensing arrangements were in place. They were only put in place, actually, at the end of May; in May sometime we were advised of it. The minute we got word from both the OEB and the Canadian Nuclear Safety Association, we started our work and that's when the communications started.

Mr Maves: But from that point, shouldn't your office's first actions be to have those meetings with Ernst and Young about what papers were available, and then have that meeting with the seniors at OPG and have the discussion with them to determine what might be available before you would go ahead and have the audit? I'm just saying the cart got put before the horse a little bit, it seems, because you still have to follow through on determining whether you need to do the audit and whether papers might be available from Ernst and Young and OPG that would preclude you from having to divert your resources.

Mr Peters: No. The fact of the matter is that as soon as the motion was passed by this committee, I was in touch with Ernst and Young. That was already way back in October, I think, when the motion was passed. When we prepared our estimates I knew already from Ernst and Young that they had not done work in this area, because they only—well, not “only”—they had to do the attest audit of OPG. Of course the lease not being executed at that particular time when they had to formulate their opinion, it was not an issue in formulating an opinion on the fairness of the financial statements of OPG. We knew at that time that there were no special records or anything we would get from Ernst and Young on this particular situation.

Mr Maves: But you haven't met yet with seniors at OPG to discuss the transaction.

Mr Peters: No. That meeting was set for tomorrow. It was the earliest date they could give me. I don't want to

prejudge the meeting, but I suspect we will get the same answer; in other words, that there are no Ernst and Young working papers dealing with this particular situation, that virtually all the documents we have to look at have to be seen by looking at OPG's direct records.

Mr Maves: Is it possible that after meeting with executives at OPG, they may come forward with some of their own paperwork to offer to your office and that your office might come back and say, “OK, this is good enough. We don't need to do a value-for-money audit”? Is that a possibility.

Mr Peters: No. From what we know this far, I don't think that's a possibility. I think we'll have to do extensive audit work there, and in fact we will get outside advice. We need engineering advice. We require probably some assessment as to whether the costing was right as to what it would cost to reactivate the reactors. We need specialists, for example, to look at such things as the market rates of electricity, what rate is implied. There are other issues involved as to, what is the return on investment and how was the investment itself determined? Those numbers we can get certainly from the audit working papers and we will use those to the maximum. But as to the cost of the investment, all communication this far that has taken place is that there was no special work done by Ernst and Young on this particular issue.

Mrs McLeod: Chair, I realize the comments I want to make address the broader issue of the audit budget in its entirety as opposed to the specific motion. I'll stand my comments down if you could leave me on the list once the motion has been placed.

Mr Hastings: Mr Peters, a couple of things. I am most interested in your letter to us—memo, whatever you want to call it—about the additional staff you're asking for. What kind of specific specialties are required in the new people if they were granted to you? You're saying about four or five pages in, where you list the bullets, down about the sixth bullet, “to fund contract staff for auditing the implementation of the new government-wide accounting system.” The next one I find the most intriguing: “to fund contract staff to assist in auditing the financing derivatives used by the government.” Are you saying one of the new people you would need as a specialty is lacking in the staff you have already? Is it the level of experience in analysing the use and application of derivatives and how much risk is involved in some of those situations? You're looking at it around the bond issues that are issued by the province and its agencies, I assume.

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Mr Peters: Most of our hedging is actually done through the Ontario Financing Authority, which is dealing with protection against fluctuations in interest rates, foreign exchange currency, as well as maturity dates. Very sophisticated arrangements are being made. One of the problems we are facing is that those people who really can assess the situations are very few and far between. We actually had quite good staff but they immediately went for the big bucks elsewhere. Once you

have that specialty, they go out. What we are currently doing is that we still have staff on hand who are sufficiently qualified to supervise the work, but the actual conducting of the work—we went to the major accounting firms, who of course are facing these issues in their bank audits continually and therefore it falls into the area of really specialist training. They have given us advice on it and we have decided to contract their staff, rather than having high-priced specialists continually on staff for, say, a three-month audit window. It is less expensive. It is far more economical to hire as much assistance from the outside as we can for the short bursts of activity, and also because it is so specialized.

Mr Hastings: I assume you have students and you have some junior auditors, middle-range auditors, senior auditors based on years and the projects and where they were before they started here. What are the salary ranges you have right now in effect for these situations, especially for the person or persons you require for auditing the derivatives situation?

Mr McCarter: The in-charge auditor we have who's handling our derivatives section would be a chartered accountant with a couple of years of experience. Maybe I shouldn't say his salary on the public record. It would be in the range of \$58,000 to \$68,000. To go out to contract people from CA firms, say a chartered accountant with experience in the derivatives area, we will probably need to pay about \$130 an hour. What we are trying to do is bring in a couple of people with that experience from outside and get some knowledge transfer to our more junior staff. Again, because we used to have three or four people who had quite good expertise in the derivatives area and we are now down to about one or two, we have a very difficult time getting the work done. We have gone out and we are bringing in one or two people to help us out. It's expensive, but we feel we need that to get the work done. We are hoping to get some good knowledge transfer down to our junior staff so that next year we don't have to do that.

Mr Hastings: What's the private sector comparable for a salary range for somebody who left who had some experience with us?

Mr McCarter: If you are asking, when we lose our new CAs typically, often they will get what's called a \$5,000 golden handshake and maybe anywhere from a \$6,000- to a \$9,000-salary increase.

Mr Peters: The handshake is for joining, not for going away.

Mr Hastings: Yes, plus also the potential for a partnership in about eight or 10 years. What other specialties are missing in your operation right now or, if not missing, need beefing up?

Mr Peters: Right now, I would say we are totally abnormally staffed compared to the other offices. Normally you're an oval, if you think of our staffing. The most staff would be at the auditor and supervisor level, in other words, qualified people. Right now that is where we are the weakest. These are people with accounting designations earned and anywhere from one to four years'

experience, in that range. That's where we are the weakest and that's where our recruiting would be targeted. Below that, 40% of our staff currently are at the student level. Really, the only way we can perform as well as we do is through a very good senior management group.

Mr Hastings: What are the salary levels for the junior auditor or whatever?

Mr Peters: The student level?

Mr Hastings: Yes, compared to internally at some of the ministries or ABCs.

Mr Peters: With the ministries, these people can raise themselves by anywhere between \$10,000 and \$15,000 if they join a ministry.

Mr Hastings: For a junior auditor.

Mr Peters: For a junior auditor, largely because before they become a full auditor, they need an accounting designation in our office. Out in the ministries accounting designations are fairly rare. Most of the financial audit work is actually carried by people who don't necessarily have an accounting designation. So they can move up the ladder in the general public sector in terms of salary faster than in our shop.

Mr McCarter: Except for chartered accountants. Chartered accountants cannot get a CA with a government ministry; they have to be with basically a public accounting office like our office. So we generally have to be competitive at the student level with the private sector. We try to be competitive, and to answer your question, our salary range at the student level would run sort of \$38,000 to \$48,000.

Mr Peters: To be fair, my office is the only one I think in the government that is licensed actually to train all three accounting designations: CGAs, CMAs and CAs.

Mr Hastings: What percentage of your budget is devoted to training?

Mr Peters: Too darned little, off hand, but I would say that we are trying to get away with a budget of about—do you have the numbers specifically?

Mr McCarter: It's a mix. We've got some conferences in there, and different things, but maybe \$30,000 or \$40,000 for training.

Mr Hastings: How is that range with Alberta and BC?

Mr Peters: I would very strongly believe that we are below.

Mr Hastings: Would theirs be \$100,000?

Mr Peters: I'm not sure. They don't necessarily have to publish their numbers. I don't have them; I'm sorry.

Mr Hastings: Thank you for that information.

Ms Martel: I have some questions and some comments.

Mr Levac: On a point of order, Mr Chair: I would just make note that I did stand down. I didn't get a chance to mention that. I would stand down my comments because I would prefer us to talk about the specific amendment, and when that's done I want to talk about the general letter.

Ms Martel: I apologize, Erik. You became Provincial Auditor in what year?

Mr Peters: In 1993.

Ms Martel: If we go back to one of the points that Mr Maves was making, which was the number of special assignments and the possibility of your office becoming politicized, one of the responses you gave to us when we debated this issue on October 12, you brought back some information to show that since you've been auditor, which is 1993, you have had seven special requests for audits, which would be, over the lifespan of your being in this position, less than one a year. I appreciate what the concern might be about what happens in the future, but I think all of us would be hard-pressed to say that there has been an effort by anyone, and I include government and opposition members, to use the possibility of a special audit to deter you or detract from you doing your other work.

I think if there have been seven since 1993, that's just not where this committee has been heading. We have been respectful of your work, and from time to time when issues are really important to individuals, like this one is to me because I'm the energy critic, those special requests come forward. But I don't think they in any way detract from you doing your other work.

Secondly, if I'm correct, you didn't determine the schedule to go before the BOIE. As I understand it, you and the other officers of the assembly, like the Environmental Commissioner etc, all had their estimates dealt with at this most recent meeting. Is that correct?

Mr Peters: That's correct.

Ms Martel: So part of the dilemma you found yourself in is that your first meeting with OPG, where you could have gotten some more information that might have given you a better number in terms of putting in the estimates, happened after the scheduling of a meeting that you had no control over.

Mr Peters: That's true.

Ms Martel: So in actual fact, there's nothing stopping this committee from recommending that you go forward again when you have some more concrete idea of what your costs might be.

Mr Peters: No there isn't.

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Ms Martel: OK. I guess there are two other points, because there was a good question raised: now that the contract has been signed, what can we hope to get from this? I think it's important that members go back, because we had the same question raised on October 5, and you said at that time there were two reasons why doing this would be important.

I think I'll just put them back into the record, and I'm quoting, "With regard to the benefit of looking at a contract that is done, I can make two comments. Normally our approach is to allow the government to learn from our findings. In other words, to use our findings and recommendations as a constructive input into the way such deals would be structured in the future, to take the

elements that we have concerns with into account when future deals are being struck."

That's key in this case because your second point was, "The second point in that regard is that certainly the entire Energy Competition Act was introduced in order to privatize. There is a learning curve in place right now about how we best privatize deals, and this seems to be the first big one. I would see a benefit from learning what went right and what went wrong in a contract like this."

That is the point, because under Bill 35, OPG has to divest itself of 65% of its assets, and the OPG-Bruce nuclear deal is the first of the divestments of those assets. So the benefit that I see of you doing this work is that we will be able to learn whether or not the government approach in the first of these deals was a good approach, whether or not we got value for money, and how we can ensure that we're going to get value for money in the other assets that are going to be sold or going to be leased, because they have to be under the terms and conditions of Bill 35.

I continue to argue at this committee that there is a huge benefit for us in looking at this particular audit, because it is not separate and stand-alone, and once it's over that is the end of the story. In fact, it's the first of a number of divestments the government will have to do in the energy sector. Because the assets we're talking about were bought and paid for by the public, we want to guarantee to the public that we're getting the best value for money through those sales or through those leases. So I would argue, with respect to the other committee members, that's why this should go on.

The final point I want to make has to do with the use of resources and whether or not you can do this assignment. Mr Maves is quite correct because, as he read his comments into the record, it was very clear that if you didn't have the resources, you had two choices: to go to the BOIE and ask for supplementary funding on a one-time basis to deal with this audit—and that's what I'm requesting that you do, because when you went forward to the BOIE it was a mix of both your annual allocation and a special request. I'm urging you to go forward with only a special request. Or, you would have to come to committee and tell us you can't do this at all, which is what you're coming to say. Mr Maves was quite correct; that was made clear to all of us.

I would ask the government members specifically to consider the following. There are reasons why I wanted this done at the time that I did in October: one, because if there was a problem with the contract, I would have hoped we could have dealt with those changes before the deal was finalized. That's nothing new; I made that clear. The second thing had to do with the timing and the ability of the auditor to undertake the review. If you go to the October 12 Hansard, on page 289 Ms Mushinski asked a series of questions about the auditor's ability to undertake this assignment, and I think they're very important as we deal with my motion today.

She asked you the following: "Mr Peters, if you were asked today to proceed with a value-for-money audit of

OPG and this deal, what are your commitments to date, and how will that affect those commitments in terms of your other duties and responsibilities as the Provincial Auditor?"

You responded, "The audit work for my 2001 report is underway right now, and it pretty well occupies my staff. I would probably have to engage additional resources on one basis or another, but I do have room in my budget to do it." You went on, "What I mean by that is that I currently do not have the full staff complement I would like to have, and that allows room in my budget to engage specialists or whatever I have to do to carry out this work."

The Chair said, "But there is room in your budget right now."

You said, "There is room in my budget right now to do that simply because I'm understaffed."

Ms Mushinski said, "But it would essentially take all your existing resources," and you said, "No, the existing resources would carry on with what they were doing, and I would staff this with money I have available because I am understaffed."

So here we are, months later, and we're in the position where you don't have the money to do it, and had we done what I was asking then, we might have been in the position to do so.

That's old ground. We went over that in two committee hearings over four hours. What I'm saying to the government today is that because we didn't do it then, when there was money, I think the least we can do now is accept the motion, which would ask the auditor to go forward with a special request under section 23 to get the resources available to do this. We all agreed it was important. We agreed to a motion that put it off to a later date, but said it would be done. This is the one and only mechanism I can see right now that would still allow this special assignment to proceed, so I would really ask for the support of the committee to pass this motion.

The Acting Chair: Thank you, Ms Martel. Ms Munro, you had your hand up a while ago. Is it still up?

Mrs Munro: Yes. If I can find my notes, it's still up.

The Acting Chair: And if you can't find your notes?

Mrs Munro: A couple of things. I want to ask about the question that I guess Bart was talking about right at the very end of his comments, with regard to the nature of the work that was done by Ernst and Young and the fact that you had had an opportunity to look at those and that they did not cover the kind of analysis you would need to have as a better than starting point, if I might say that. Is the obstacle to the kind of analysis you're talking about because of the fact that it would be the kind of analysis the company itself might have undertaken? It seems to me they would have wanted to know whether they were doing the right thing in making that. Would their analysis, then, not be available to you?

Mr Peters: If I may answer both questions, firstly, we didn't look at the Ernst and Young records. I communicated with the senior partner in charge and asked him if they had done any work on that particular Bruce deal and

they said no, because it was not an issue in the attest audit they were conducting for the year ended December 31, 2000. That is the first one.

Secondly, yes, your assumption is quite correct. That's what we hope to get tomorrow, to find out from them what papers they have, what analyses were conducted by OPG before they went into the deal and what options they had. In fact, the vice-president I talked to already indicated over the telephone that they would be very interested in showing us the various options they looked at and how they analyzed these individual options. Certainly we would be very interested in looking at that.

Mrs Munro: Could we say that there is the possibility at this point—because obviously you haven't met with them—that the possibility exists, then, that there could in fact be some value to what they have already done in terms of your ability to move forward?

Mr Peters: One would expect that any good executives have done their homework, so that's what we're going to look at. I can't prejudge what it is, but I would certainly expect—also taking from the comments made to me already by that senior vice-president—that quite a bit of thought has gone into this.

Mrs Munro: Another area I want to ask you about is that here in committee this morning you've answered a number of questions and explained the difficulties you have with regard to staffing, and the kind of comparison you've provided for us, where ministries and you yourself have made the investment of contracts and things like that to gain that expertise. You mentioned that recently when you were at the Board of Internal Economy—would that kind of analysis have been available to them?

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Mr Peters: The analysis as to where we need contract staff etc?

Mrs Munro: And the staffing issue.

Mr Peters: Very definitely. It's part of my estimates submission to the committee. We actually outlined dollar for dollar, virtually, why we needed this \$608,000. That is in there. In fact, the bullets I provided you with this morning are actually taken from our submission. For example, we said, "The increase is due primarily to additional consulting expertise needed to assist in auditing the implementation of the new government-wide accounting system, along with an increase in contract staff required for agency attest audits." It used all these bullets you'll find in here somewhere, so they were aware.

Mrs Munro: The only reason I asked the question was simply because in the letter to Mr Gerretsen, that wasn't the focus of the letter. That's why I wondered whether that had been part of that original inclusion, which obviously it was.

Mr Peters: There was some reluctance on my part to actually present you with the total estimates review, because I didn't want to get into the issue of second-guessing the board, so I just extracted—I thought it would be worthwhile for this committee to know two things: where my office stood in relation to other legis-

lative audit offices, and where my office stood in terms of funding to overall government revenues and expenditures over that period of time.

Mrs McLeod: Not to interrupt, Julia—I don't have the floor—but I believe we are going to have a vote fairly shortly and I just wanted a determination that since this issue has not been time-allocated, the committee will return to it next Thursday morning.

The Acting Chair: If the bells were to ring, it's at the Chair's discretion. In other words, we would adjourn in time to go for the vote, and yes, it would carry over till next week, or till the next meeting, which is next Thursday.

Mrs Munro: You mentioned much earlier in your conversation the prospect of amendments to the Audit Act. You mentioned, I believe, that you had been in discussions. Do I remember correctly?

Mr Peters: Yes, we have been in discussion, but the amendment to the Audit Act, that the government would act on it, was made on April 19 in the speech from the throne. My estimates submission to the Board of Internal Economy was made on March 8 and was not in contemplation of any of these events. So the \$609,000 that I asked for was to merely carry out the current workload better, but did not include any consideration of amendments to the Audit Act.

Mrs Munro: We talked earlier this morning about the private members' bills that have been introduced and debated, increasing the responsibilities. Has that been part of your discussion with the finance ministry with regard to changes in the Audit Act? Is that the thrust of those discussions?

Mr Peters: Have I talked to them about the resource requirements?

Mrs Munro: No. Expanding the horizon of responsibility: is that the thrust of those discussions, that would be sort of consistent with those private members' initiatives?

Mr Peters: That's right. Actually the initiative of amending the Audit Act for that purpose is now a decade old at least, for years. It has been twice before this committee and received endorsement. It received, for example, the endorsement of Mr Harris when he printed the Blueprint for Learning in 1991 or 1992. There's a specific section that says the Provincial Auditor shall audit all of the transfer payment recipients. So it's of long standing and there have been quite a few discussions with the Ministry of Finance.

There also have been discussions as to how that would relate to the Public Sector Accountability Act. It is my office's view, and we have made that clear, that we are really looking at a tripod, if you will, the tripod consisting of the Public Sector Accountability Act, which we have always recommended be in place so we can audit against something when we audit; the amendments to the Audit Act; and there's a third element which was raised by the two Ontario financial review commissions, and that is that there is also some onus on the government to put its own budgeting and estimates processes in order in

such a way that the demands made on the transfer payment recipients are actually realistic in terms of timing. For example, how do you ask a transfer payment recipient for a business plan for a year when the government itself has not decided yet how much money to give them? These are aspects that have to be dealt with and looked at.

Mrs Munro: Then I guess it's premature to ask you if there has been any consideration on your part and that of your staff in terms of how you would respond from a fiscal point of view to any of those kind of legislative initiatives?

Mr Peters: We certainly are looking at it, but we cannot reach a conclusion until we find out what is really going to happen. To give you an example, the first draft of the Public Sector Accountability Act had certain lower limits in mind, like an agency, before they had to comply, had to receive so much money from the government. The draft legislation that we have seen does not contain any of those limits. When we raised the question we were told that it would be covered through regulations. So it's not just the act itself but it's also the regulations that follow with it which will have a significant influence on that, and we haven't seen any of those.

Mrs Munro: OK. Thank you.

Mr Raminder Gill (Bramalea-Gore-Malton-Springdale): In your charts, Mr Peters, at the end of your letter, you have tried to show some variances between different provinces. This \$600,000 of extra money that you're requesting, how would that change the picture? Is that going to bring you to average, are you going to be a leader or are you still going to be way behind?

Mr Peters: I would still be way behind. If we had gotten the \$600,000, my number would have gone from .06 to .07, so I would still be less than half the nearest, leanest—

Mr Gill: In your submission, why would you not be asking for millions and millions more to be average?

Mr Peters: It would just increase the amount by which I would be turned down.

Mr Gill: But you'll be happy with \$600,000?

Mr Peters: I submitted the \$600,000 to the board on the basis that it would be the first step. Some \$360,000 of that amount was the first step toward increasing my overall staff complement back to 100. That's what we were hoping for over the next three years, in other words, from 85 to 90 in the current year, 95 the year after and 100 in the year after. So I did indicate that it was a first step.

Mr Gill: Last year you got \$600,000?

Mr Peters: Last year we got what we asked for, which was the \$8.3 million. We did not—

Mr Gill: No, the increment from \$7.7 million to \$8.3 million.

Mr Peters: We got about \$500,000.

Mr Gill: OK. You're hoping to get \$600,000 this year. I guess I can't ask you to extrapolate that to next year's request. Too early?

Mr Peters: A little bit too early, but I would think we are probably going to be in the same range again.

Mr Gill: So it's going to be, for argument's sake, \$600,000 last year, \$600,000 this year, \$600,000 next year and so on.

Mr Peters: Right, and when I'm done with that particular leg I hope to be at maybe .09, back to the level we had in 1991-92.

Mr Gill: So this ratio that you're trying to show between other provinces really doesn't mean much in this context. You are happy with \$600,000 for the next—my concern is, what do those ratios show, other than telling us that we're way below? You're not trying to average out, you're not trying to say, "Give me millions more."

Mr Peters: I want to be realistic from another perspective, and that is, I very much have in mind how much this committee, which is really my client, can deal with. I believe there is no point in bringing, say, 100 issues to you when the committee, in the time that is allowed, can only deal with 10 or 15 of them.

1150

Mr Gill: Last year, at the October 12 meeting, in the Hansard notes, because you were understaffed you said you could take on this OPG audit. Has your staff complement increased since then? Are you fully staffed, so-called?

Mr Peters: No. It has increased, but we are not fully staffed.

Mr Gill: So you still may have some room for OPG, using the same analogy?

Mr Peters: The money we are returning? No. That's what I'm advising you of. I don't have the room any more because my request for \$609,000 was turned down.

Mr Maves: Let me just add one thing to that, a question that occurred to me. When Ms Martel did her bit last time, she noted that you had the money in October. Your fiscal year ended March 31. You knew that this was outstanding. Why didn't you earmark a certain amount of money within this fiscal year to do that audit?

Mr Peters: Firstly, because under the rules, I cannot carry forward surpluses.

Mr Maves: I understand.

Mr Peters: I've got to return the money. In October, it looked like we were heading—because we were so understaffed and because of turnover advantages, which we incidentally budget to the greatest extent we can, it looked like we had some room to hire contract staff at that particular time.

Mr Maves: When you entered into this new fiscal year, some of your money was already earmarked for on-going audits, I would assume. But you've obviously also earmarked dollars for audits that you were starting to undertake as of this fiscal year, April 1, 2001. Why wouldn't you just earmark some money to do this OPG audit in that process?

Mr Peters: I did. I did. I went to the board and asked them for money to do it. They turned me down.

Mr Maves: No. You went and asked for additional resources. Out of your resources from which you were

going to do your normal audits, you didn't earmark money for this audit?

Mr Peters: For OPG?

Mr Maves: Right.

Mr Peters: We said we need specialist assistance to do this work. There was no point, if I didn't get the specialist assistance, to earmark other staff for this work.

Mr Maves: Maybe, as Chair Gerretsen has said to you, you should come to the committee and explain how it is you choose to do the audits that you choose to do. I'm assuming as of April 2001 you looked at your budget and said, "OK, I have to do certain audits," and your office earmarked money to do those certain audits. In doing that, you didn't earmark money to do this audit out of your existing resources. You chose not to.

Mr Peters: No, that's not quite correct. Firstly, I approach it totally the other way around. What I mean by that is that my office is organized in portfolio teams. Each portfolio team runs a risk assessment on their portfolio of ministries that they're handling. They come forward with what we want to do, what is high urgency right now. Then we have a meeting on that. We are doing that right now actually for the 2002 annual report. That meeting is due in about the beginning of July time frame. At that point, we then decide on the overall picture, which audits, based on this risk analysis, have priority. Then I send the teams back to put together their resource requirements to conduct those particular audits. Then we have the second round which says, "OK, what can we do and what can we not do?"

It is in that process that we would build in the OPG audit if we are asked to do it further. It certainly adds a new dimension if we were to follow this motion that was given right now. If this motion were passed, I would suggest that my audit teams go ahead with their plans in the normal process and they would re-fund OPG entirely out of the supplemental estimates that I'm asked to request.

The Acting Chair: Any further discussion?

Mr Maves: Chair, we'd like to move adjournment and pick up the conversation and voting on the motion next Thursday morning. I think we have agreement from everyone to do that.

Ms Martel: Can you just explain why?

Mr Maves: We think we can support kind of a combination of the two motions, but we'd like the opportunity to go away and work on that. We'll be in touch with the members opposite throughout the week.

Ms Martel: Can I just ask one question? Just so I'm clear then, Mr Maves, is part of what you're looking for to hear back from the auditor about the meeting he's going to have with OPG tomorrow to assess what his needs might be after he has a chance to talk to them? So the auditor will start off the next meeting by reporting back on what has happened and what his needs might be? Is that primarily the outstanding issue, or are there others?

Mr Maves: That's it.

Mr Peters: I just want to be realistic about it. That is the first meeting we have, so I won't have a definite

conclusion from it. That's just to analyze the past documentation available etc. We have to move a little bit further down the pipe to put that into actual resource requirements. Beyond that, I just wanted to add the quick footnote that section 23 only covers specialist assistance; it doesn't cover anything else.

Mrs McLeod: Chair, I'm comfortable with the adjournment. I do want to indicate that I would let my notice that has been circulated stand as notice of motion,

but I would be more than willing to stand down my motion if there is consensus reached on an alternate motion that the committee can support.

The Acting Chair: OK. Everybody happy? I've enjoyed being with you this morning. I used to be on the public accounts committee, and I said this morning that I wanted to make a coup and come back. Anyway, thank you. The committee is adjourned.

The committee adjourned at 1157.

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Thursday 21 June 2001

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Jeudi 21 juin 2001

**Standing committee on
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Committee business

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LEGISLATIVE ASSEMBLY OF ONTARIO

ASSEMBLÉE LÉGISLATIVE DE L'ONTARIO

STANDING COMMITTEE ON
PUBLIC ACCOUNTSCOMITÉ PERMANENT DES
COMPTES PUBLICS

Thursday 21 June 2001

Jeudi 21 juin 2001

The committee met at 1004 in committee room 1.

COMMITTEE BUSINESS

The Chair (Mr John Gerretsen): I'd like to call to order the meeting of the public accounts committee. The first item that we're dealing with is the motion by Ms Martel and the notice of motion by Mrs McLeod. However, before that, the auditor wanted to make a statement as well.

Mr Erik Peters: Thank you very much. I just wanted to relate to you two items that appeared in Hansard which are not quite as I had. There's a difference between my handout and Hansard with regard to the fact that my office received in 1991, and not, as Hansard states, in 1999, nine cents per \$1,000 of government revenues and expenditures, compared to six cents now, or a drop of about 33%. I would like to put that on the record, because that's from the notes that I handed out to you.

The other one was, the question was raised as to the number of value-for-money audits we were doing, and for some reason Hansard shows that the range was from 80 to 20, and the correct range is from 18 to 20.

We have advised Hansard, but they have suggested to us that they are somewhat limited in making changes so they would prefer that I put it on to a subsequent Hansard. So there are those two factual things picked up the wrong way.

The Chair: All right. Now, in dealing with the motion then, Mr Peters has some information that may be relevant at this stage.

Mr Peters: I was advised on Monday that the Board of Internal Economy has decided to reconsider my estimates and a meeting has been called for that purpose at 4:30 in the afternoon on June 25.

The Chair: June 25 being next Monday.

Mr Peters: It's a special meeting for the particular purpose of dealing with my estimates as well as those of one other officer of the Legislature. So I just wanted to alert you to that. Of course, I can't presage the outcome. We're somewhat optimistic, but I just wanted to let you know that that has occurred, and the Chair and Vice-Chair have been formally invited to attend that meeting.

The Chair: So in light of that, I wonder if both motions can be—I'm sorry?

Ms Shelley Martel (Nickel Belt): Are you going to ask me to withdraw?

The Chair: No, I'm not going to ask anybody to do anything. I was just going to suggest that maybe it be held in abeyance until our next meeting, depending upon what happens at the meeting on Monday. But I'm in your hands, Ms Martel.

Ms Martel: I'll tell you how I feel. I prefer not to do that, because I prefer that the committee be able to also send a message to the BOIE about our concern with respect to these two matters, that the committee had previous meetings, did agree that these two audits should go forward and that there obviously is, at least with respect to OPG and Bruce, a need for additional sums of money to complete that and probably some funds to complete the second CCO in a timely fashion. So my preference would be not to pull the motion at this time, despite the fact that the auditor is going forward, but to actually pass it so that it could be part and parcel of what he references at the meeting on Monday and also that you, Chair, if you are in attendance, could also reference it as well.

The Chair: It may strengthen the hand of the auditor. That's what you're suggesting.

Mrs Lyn McLeod (Thunder Bay-Atikokan): I feel the same way about at least a part of my motion, but I would be quite prepared to amend the motion so that it removes the second part. The second part of my motion was that the public accounts committee recommend that all special audits directed by the committee to be carried out be funded as supplemental to ongoing annual expectations of the provincial audit office.

The first part of my motion is much less specific and I think by passing that motion the committee would simply be supporting what the Board of Internal Economy has now agreed to do, and that is to review the auditor's budgets and address the inadequacies in comparison to other provinces. So I would like that kind of support to come from this committee to the Board of Internal Economy.

The Chair: I wonder if we could deal with the motions one at a time. So we'll deal with Ms Martel's motion first. Any comments at all?

Mr Bart Maves (Niagara Falls): One of the things that we had discussed last week, actually among ourselves, was that we were prepared to support a revised motion from Ms Martel and the first part of Mrs McLeod's motion. So I don't know if we want to combine them or if we want to keep them as two separate motions.

Ms Martel: Do you have a motion that's prepared that we can look at?

Mr Maves: Yes. If you just read from Ms Martel's motion, first and foremost. I won't move this yet. I'll just put the wording out there perhaps for discussion and then move it: "The public accounts committee recommends that the Provincial Auditor, after completing discussions with OPG and its auditors and determining that further work is necessary, return to the Board of Internal Economy to seek special, one-time funding," and then it continues as it is.

1010

The Chair: Is there any comment on that?

Mrs McLeod: That's a revision to Ms Martel's motion?

The Chair: It's a revision.

Mrs McLeod: But it doesn't incorporate both in one; that stands as a separate motion.

Mr Maves: No, we're dealing with that one first.

Mrs McLeod: Yes, that's fine.

The Chair: Let's deal with it one at a time.

Ms Martel: The auditor did have a preliminary meeting, as I understand, with OPG last week. Can you respond to the committee as to how that went, and did it make a determination in your mind about what your needs will be?

Mr Peters: It has been a first step. As a result of the discussion, a few things have become clear. OPG has appointed a liaison vice-president to deal with us. We have now identified about four vice-presidents we have to deal with. We have met with one of them, and we'll have to meet with the remainder.

I've also had further discussion with the senior partner in charge of the OPG audit. As I had indicated in the last session, I had already discussed the matter all along with a senior partner of Ernst and Young and this week confirmed what they had told us in the beginning, that they had looked at the Bruce lease arrangement only to the extent that it was necessary for their determination of the fairness of the accounts of OPG for the year ended December 31. As you know, at that time the lease arrangement was not yet fully in place.

But we have communicated all along. We have received indications of full support. But it also becomes quite apparent that we will need specialist assistance in many of the areas that this touches upon, for example, the valuation of the Bruce plant itself as part of the OPG nuclear fleet, future pricing assumptions that were made. To give you some indication, for example, the Bruce lease has 52 sub-agreements dealing with variables in the whole leasing arrangement. It is a very complex situation.

But to conclude, after the meeting, I would say that the committee doesn't lose anything by saying that, because that is a logical step of my process anyway, to discuss these matters with OPG and with its auditors.

Ms Martel: My question would be in terms of the wording. Clearly, you're going to need specialist assistance. That was clear to you after the meeting. What I'm

not clear about, though—this is a question to Mr Maves. Are you looking for some kind of sum, for the auditor to return to the committee with a particular amount of money, before the request is made or is it enough that he, after the meeting on Thursday, knows he's going to need additional assistance?

Mr Maves: The discussion last week—

The Chair: I'm sorry. We're on Hansard right now, Mr Maves. We all need coffee from time to time, but it would be better to sit—

Mr Maves: The discussion from last week, and previous to that when we were reviewing the Hansard, was that the Provincial Auditor's office would have discussions with OPG first because they didn't want to do something that was redundant. The auditor has said he's met with Ernst and Young, but he had said last week—I think that's who the auditors are, Ernst and Young?

Mr Peters: Yes.

Mr Maves: But that he was initiating his meetings with OPG. He would always determine when he did his audit whether or not he needed more resources after finding out what was available to him through his meetings with OPG and Ernst and Young. That's logical and rational to us. We just wanted that process to bear itself out and let the auditor make his own determination following that, not having to come back to us. That's why we said in here after the auditor "determines that further work is necessary," that's when he returns.

Mr Peters: To the Board of Internal Economy.

Mr Maves: Right.

Mr Peters: Mr Maves, I just wanted to make sure it's clearly understood. I met with two senior vice-presidents of OPG and I've had numerous telephone conversations with a senior partner of Ernst and Young. I just want to put that on the record. You indicated that there were meetings with Ernst and Young, and they haven't taken place yet.

A footnote, if I may. Also in that meeting it becomes very clear that there will be work required, largely because the indications are very clear that there is one aspect of the deal which deals with the hard numbers, but I was advised there are also quite a number of so-called soft considerations. They will certainly need exploring, and they will need specialist assistance.

The Chair: Is there any further discussion on that portion of the motion?

Ms Martel: Can we have it reread?

The Chair: No. There has been no amendment moved. We're just trying to submit the wording on it. Would somebody like to move the amendment to the motion? Is that what you're prepared to do?

Mr Maves: Sure. I don't know if we want to combine the two. Can we have a quick discussion about Mrs McLeod's?

The Chair: OK.

Ms Martel: Sorry, Bart. Before you do that, can you just give me the wording, the first set of words, before we move to Lyn's?

Mr Maves: "The public accounts committee recommends that the Provincial Auditor, after completing discussions with OPG and its auditors and determines that further work is necessary, return to the Board of Internal Economy to seek special one-time funding ..." and then it continues.

The Chair: And the balance of your resolution. That's been moved now as an amendment.

Ms Martel: I just want to be clear that it doesn't preclude the auditor from dealing with this on Monday.

The Chair: No.

Ms Martel: He's going to raise the issue of OPG on Monday?

The Chair: Absolutely. The way I understand it, the initial discussions that have been set out in the amendment have in effect already been taking place. Am I not right in that, Mr Peters?

Mr Peters: The initial discussions have taken place, yes.

Ms Martel: OK.

The Chair: But one of the purposes of the meeting on Monday is not only to deal with the entire budget, but also this specific item, I can assure you of that.

If that's sorted out, how about Ms McLeod's motion?

Mr Maves: Can I ask one question, though?

The Chair: Sure.

Mr Maves: On Ms Martel's motion, there was an addition "as per section 23 of the Audit Act." Are we retaining that?

The Chair: What does section 23 of the Audit Act say?

Ms Martel: It's a provision to allow the auditor to go and ask for special one-time funding. So at the point where we were last week—

Mr Maves: So it highlights that that provision is in his act?

Ms Martel: Yes.

The Chair: It would be one-time funding as per the provisions of section 23 of the act. What would you call that?

Mr Peters: We are making a—

The Chair: Yes, a clarification.

Mr Peters: I'm a little bit concerned about this particular aspect because I cannot charge my own staff time to section 23. Section 23, by its wording, limits me so that I can only charge to the consolidated revenue fund those specialist assistants which are required. The point I made to the committee was that because of the significant underfunding of my office, I will also have to pull my regular staff out of other work they should be doing. So that part I find a little bit constraining. I would prefer a combination of section 23 and other resources, and this is the point I made last year. Because of the significant underfunding, I'm really in trouble on this one.

Interjection: Why don't you just drop that one?

Ms Martel: I'll just drop it altogether, if that's helpful.

Mr Peters: That would be helpful.

The Chair: What's being dropped is the reference to section 23.

Ms McLeod's portion of the motion or suggested portion of the motion.

Mrs McLeod: I'm not sure about combining them, because if I were to take out the section on special audits from my motion and leave it simply as a general recommendation to review the auditor's budgets, then I think both are stand-alone motions, and I would be quite happy to remove the specific reference to "special audits" from my motion.

The Chair: So we will simply deal with Ms Martel's motion at this time and then your motion next, OK?

Mr Maves: OK.

The Chair: Is there any further discussion on the amendment to Ms Martel's motion? No.

All those in favour of the amendment? Opposed? Carried unanimously.

On Ms Martel's motion, as amended. Any further discussion?

All in favour? Opposed? Carried unanimously.

Ms McLeod, it's your motion that's next.

1020

Mrs McLeod: My proposal, if you have the motion before you, is that it would read, "I move that the public accounts committee, on behalf of the Legislative Assembly, request that the Board of Internal Economy further review the budget requests of the Provincial Auditor and address the inadequacies in the funding of the Ontario audit office in relationship to the comparable audit office budgets in other provinces." I would then delete the further motion that would look at special audits.

The Chair: Just for the record, you're moving what you've just stated as a motion?

Mrs McLeod: Yes, without the balance of the "I further move...."

The Chair: That's correct.

Mrs McLeod: My reason for doing that is twofold. First of all, I believe Ms Martel's motion speaks to one specific special audit, and that's the audit which the auditor has made very clear he has to have additional funding for in order to complete the audit on power generation.

My concern has been with the motion to do a special audit on the private cancer clinic. But my understanding of the discussion we had last week was that if his overall office budget funding is adjusted it would be possible for the auditor to carry out that cancer clinic audit because it is financially less onerous. If the Board of Internal Economy addresses the overall budget issues, we would not need a special allocation to do the private cancer clinic audit. Can I just confirm that that is a correct understanding?

Mr Peters: That is fair enough, with one proviso: that we also indicate in the letter to the committee that we may have to report a little later than originally anticipated. The report may be coming out toward the end of the calendar year as opposed to September.

Mrs McLeod: Even if there's a budget adjustment?

Mr Peters: Even if there's a budget adjustment. As you know, it would be coming only later in the year, this being June. Then we couldn't undertake any steps to increase our resources until we had the budget to do so, so we will have to move in on it. But I can give you the assurance that we will move as quickly as we can on it. I would say that probably the end of calendar year would be a definite very outside date. We'd try to do it sooner.

Mrs McLeod: I appreciate the fact it would be done. My concern is that the contract for the private cancer clinic has a one-year termination date, subject to review and renewal at the end of that year. So I would hope the value-for-money audit the committee has asked you to do would at least be input to any review that might be done in terms of the extension of that contract for another year. I think that would be absolutely essential input.

Mr Peters: That will be an undertaking of ours. We would conform to that.

Mrs McLeod: Thank you very much.

The Chair: Is there any discussion on this?

Mr Maves: In our discussions on this motion, we are prepared to support the first paragraph of the motion. We would prefer deleting—

The Chair: That's the only paragraph, right?

Mr Maves: Right. I appreciate that change to the motion, and we're supportive of that. In the paragraph that's remaining, we would prefer to delete the words "and address the inadequacies," simply because we're not prepared to make that particular conclusion at this point in time, but we're happy to support the auditor's desire to go back to the Board of Internal Economy to request this.

The Chair: I stand corrected. What you're referring to is the second part of the actual motion that has been moved.

Mr Richard Patten (Ottawa Centre): Use a short form. How's that?

Mr Maves: No.

The Chair: Any comments?

Mrs McLeod: I think I would have to move that as an amendment. I would want the motion to stand as is, because I think it's a fair reflection of what the auditor has presented to this committee, which shows the budget for our audit office is so far below the next comparable province that that is an important piece of information for the Board of Internal Economy to consider. I think if we're serious about addressing the issues the auditor has raised in this forum, we should be prepared to acknowledge the fact that the budgets for our audit office are in no way comparable to the budgets for any other audit office in the country of Canada. So I would like the motion to stand as is.

Mr Maves: We would like to propose an amendment to the motion, so that it would read as follows:

"I move that the public accounts committee, on behalf of the Legislative Assembly, request that the Board of Internal Economy further review the budget requests of the Provincial Auditor in the funding of the Ontario audit office."

Mrs McLeod: I think at the end of that amendment you would have to actually say that you removed the—

Mr Maves: Which therefore amends it by removing the words, "and address the inadequacies" and everything from "in relationship to" onward.

The Chair: The other way to do it is to split the motion into two parts, the first part dealing with the funding and the second part dealing with addressing the inadequacies. Comments?

Mrs McLeod: Either way, it carries the same force. The amendment, as Mr Maves has worded it, which I won't support, is a valid amendment and it makes quite clear that what they're doing is removing the reference to the inadequacies.

Mr Maves: And the other part at the bottom is a concern. I don't think we should be recommending to the Board of Internal Economy that they simply look at this in relation to comparable audit office budgets. They're going to look at that as part of reviewing his budget, but that won't be the only thing they'll want to look at when reviewing his budget. We don't want it to be the only thing that the Board of Internal Economy should consider when reviewing his budget.

The Chair: OK. Any further discussion on the amendment?

Ms Martel: I apologize. Can you give it to me again?

The Chair: I'm sorry?

Mr Rosario Marchese (Trinity-Spadina): His amendment.

Ms Martel: It removed "and address the inadequacies"?

The Chair: His amendment is to leave the first part of the motion and then after the words "Provincial Auditor," say "in the funding of the Ontario audit office," and delete the words "address the inadequacies."

Ms Martel: Clearly, I appreciate the concern from the government side on this. But by the same token, I think anyone looking at the information the auditor gave us last week with respect to the funding of his office in relation to other offices, particularly in light of the government budget that has to be audited, could have no other choice but to have the impression that we in fact are inadequately funded. I think the numbers bear that out.

I know politically you want to drop it, and I understand the reason for that, but I don't think we can look at it in any other way. Given the amount of money that he has to audit and the demands on him and his staff to audit and budget in relation to every other jurisdiction, clearly it is inadequate; it's insufficient to do the job. The sheer drop in the number of audits that he's been able to do gives us another reason to clearly say the budget is inadequate.

The Chair: Any other comments?

Mr Marchese: I clearly see that the motion from the Liberals speaks of addressing "the inadequacies in the funding of the Ontario audit office" and the auditor's speaks of "As a servant of the Legislative Assembly and the public accounts committee, I consider the inadequate funding ...". I'm just going to propose that perhaps we

use his wording. Would that make Mr Maves feel better if we said "address the inadequate funding"?

Mr Maves: No.

Mr Marchese: It wouldn't. I see. I thought perhaps the wording was what disturbed you. I think we should just let the words of the auditor speak for themselves. Bart, I'm not sure you necessarily want to try to hide that. It doesn't speak well of politicians when we do that. You should go forward in that way, you should address it, because it's a clear problem in terms of inadequate funding. If you deal with it on Monday, then it gets dealt with, and if it doesn't, then we have another problem that we will all articulate in different forums

I support the motion as it is, and I will ask for a recorded vote on this if Bart Maves doesn't support the amendment as put forth by the Liberal member.

1030

The Chair: Any further comments? Ms McLeod, you had your hand up?

Mrs McLeod: Yes. I would not have been happy with that particular amendment to my motion because I think the substantive issue here is that by any objective comparison of what audit offices are expected to do, our audit office is underfunded. The best way of making that case is the one the auditor has made, which is to show us factually how the other audit offices are funded. I'm sure the Board of Internal Economy will take other facts into consideration.

I could add it to the motion if it would actually lead to the motion being passed, but I'm sure they would want to take into consideration the fact that the audit office has already saved us some \$500 million, or would have been able to if all of the recommendations had been acted on. The \$500 million that the audit function has saved for government more than offsets any increase to address inadequacies in comparison to other provincial budgets. That's certainly a factor the Board of Internal Economy will take into consideration. I'm sure there are others. I wasn't attempting to be exhaustive, but I do think the central fact is our audit office is underfunded in comparison to every other province. In dealing with the auditor's concerns, I would like that to be presented by this committee to the Board of Internal Economy.

The Chair: Anything further? If not, I'm going to call for the vote. A recorded vote's been requested on the amendment.

Ayes

Dunlop, Hastings, Maves, Spina.

Nays

Marchese, McLeod, Patten.

The Chair: The amendment is carried.

I'm going to call for the vote on the motion, as amended. All in favour? Opposed? That's carried unanimously.

Mr Peters: May I make a comment?

The Chair: Sure, you may make a comment.

Mr Peters: I will have to deal with this issue. I have had permission from the Auditor General of Canada to state that the Auditor General of Canada has just received an increase in his estimates by 15%, which is exactly 100% of my estimates. That has just been approved by the federal government. I just thought you might want to know.

The Chair: Any factual ammunition that can be used should be used.

I guess that's all in open session for now. The only thing we may want to discuss—and perhaps by way of subcommittee; we can arrange for a subcommittee meeting before next Thursday—is to see whether or not we want to hold any meetings in the summer to finish off writing the four outstanding reports that are still due. One of them deals with young offenders, the second deals with emergency health, the third deals with Polaris and the fourth deals with the forestation situation. Anyway, what I propose to do is call a subcommittee meeting between now and next Thursday so we can make a decision at that point in time.

Thank you very much. The open session is adjourned.

The committee continued in closed session at 1034.

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Also taking part / Autres participants et participantes

Mr Dave Levac (Brant L)

Mr Erik Peters, Provincial Auditor

Clerk / Greffière

Ms Tonia Grannum

Staff / Personnel

Ms Elaine Campbell, research officer,
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Official Report of Debates (Hansard)

Thursday 11 October 2001

Journal des débats (Hansard)

Jeudi 11 octobre 2001

Standing committee on public accounts

Audit Act amendments

Comité permanent des comptes publics

Amendements à la Loi sur la
vérification des comptes publics



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LEGISLATIVE ASSEMBLY OF ONTARIO

ASSEMBLÉE LÉGISLATIVE DE L'ONTARIO

STANDING COMMITTEE ON
PUBLIC ACCOUNTSCOMITÉ PERMANENT DES
COMPTES PUBLICS

Thursday 11 October 2001

Jeudi 11 octobre 2001

The committee met at 1004 in committee room 1.

The Chair (Mr John Gerretsen): Good morning. I call the committee to order. First of all an update on the MOE material. Perhaps, Ray, you can give us an update on that.

Mr Ray McLellan: This is a follow-up to the meeting we had back in September. We sent a letter out to the ministry asking for a response by September 21. I received a call this morning from Jan Rush's office saying that we'd have the material by tomorrow morning. So, hopefully it'll come in and we can deal with it next week.

The Chair: OK, so next week, then, we'll be dealing with the second draft on the Ministry of the Environment report. For the record, it should be noted that it's the fifth extension they've requested, right?

Mr McLellan: It's taken a while.

AUDIT ACT AMENDMENTS

The Chair: This morning you may recall that some six months or so ago the committee decided that at some point in time we should take a look at the Audit Act, I think at Richard's request, and in particular the comments made by the auditor in section 2 of the special report last year. I believe it was agreed upon last week that if we were not going to deal with the Ministry of the Environment report, we would deal with this issue today. Erik, I'll ask you to lead it off.

Mr Erik Peters: I would like to make some very brief opening comments and then answer any questions the committee may have. In order to facilitate the discussion, though, what I would like to do is distribute to you the proposed amendments to the Audit Act. It's a copy again. It was given to you once before, but I thought if you don't have it with you, it may facilitate. I want to keep my comments relatively brief. That will be a challenge.

The Chair: Just so that I'm clear on this, have you discussed the proposed amendments with the Ministry of Finance?

Mr Peters: That's right.

The Chair: OK, go ahead.

Mr Peters: Currently, the status of that is that we have discussed them with the Minister of Finance. Since that initial discussion there have been, what is it, one or two, John?

Mr John Sciarra: Two.

Mr Peters: There have been two meetings with the Ministry of Finance staff on a number of other issues that they brought up, and we are currently in the process of responding to those. I am asking the minister for a further meeting to discuss both amendments proposed by them and our reaction to them. That's the current status of that.

If I may, then, Chair, go into opening comments.

The Chair: Sure.

Mr Peters: The reminder to all of us, and to me particularly, is that the principal focus is on my office being able to do discretionary audits of transfer payment recipient organizations. As I explained I think in the previous meeting on February 21, the transfer payment recipient organizations that we are focusing on are the ones that are receiving money to carry out government programs. These are organizations which are governed by boards of directors. They're principally in the area of what is commonly referred to as the CHUMS sector—colleges, hospitals, universities, municipalities and school boards—which are the main recipients. We are not going to audit, and in my opinion should not be able to audit, of course, other transfer payment recipients such as welfare recipients, or doctors who receive transfer payments on the basis of billing fees for services.

The total amount involved that these transfer payment organizations are receiving is in the \$30-billion-a-year range. Total transfer payments are well over \$40 billion a year, but the balance are those individual payments in sum total where the principal method of providing the transfer is by determining the eligibility of the recipient. Once they're eligible, what they do with the money is their own affair. These organizations that we're focusing on are the ones that are receiving transfer payments because they are not only eligible but they're also supposed to spend these funds for the purposes intended or, in other words, for the purposes given to them by the government.

1010

That is really the principal issue that has been the driving force. These proposals that we made to you are the latest, if you will. They have been private members' bills from both the government side and the opposition, with the same intent. So we are carrying on in that regard.

The second issue I wanted to talk about briefly is that the current Audit Act refers to us reporting on the public accounts of the province on the basis of accounting

policies stated by the government. That section is about 20 years old and was crafted at a time when there were no accounting standards for the public sector. What we have proposed in our amendments is to update that particular provision. We're doing that for a number of reasons, all of which are a little bit technical, but hopefully I can explain them to you.

First, we are proposing that because we would like to update the Audit Act, simply to modernize it and bring it up to date to refer to standards that are there. Second, the government has applied these standards issued by the Canadian Institute of Chartered Accountants by its public sector accounting board, in the financial statements and the public accounts since 1994 and in the budget since 1996. So it merely would be confirming what is already there. Third, all governments in Canada now follow the CICA-PSAAB standards to some extent or another. Some are 98% there and some are there to a somewhat lesser percentage.

Also, there is a generally accepted principle that preparers of financial statements should not set their own standards. That particular standard is enunciated in the private sector, for example, in both the Ontario Business Corporations Act and the Canada Business Corporations Act, which make specific reference to the standards set by the Canadian Institute of Chartered Accountants against which the private sector should report. With the existence of these standards, I see no reason why this principle should not also be applied in the public sector.

Finally, both Ontario financial review commissions, the first and the second one, have recommended the application of CICA-PSAAB accounting rules, the first one particularly with regard to the budget because it was already done in the books when they were created, but also the second one with particular reference to tangible capital assets.

These are essentially the reasons that outline why we would like to see this update of reference to accounting standards. There is also a professional reason. The standard opinion that we are giving is normally crafted in such a way that I am supposed to opine in the end whether the financial statements of the province are fairly presented in accordance with some accounting standards. So I need the standards. I have concerns if the preparer or the government can determine its own accounting rules rather than an independent body.

Further discussion I would like to have: when we are auditing transfer payment recipients, we would like to follow the same rules we are currently following with regard to commenting on government policy matters. In my annual report we have a paragraph which was slightly altered this year because we have moved ahead with the secretary of cabinet in this area. It now reads that my office does not audit government policies or information contained in cabinet documents used in policy deliberations or decisions. The government is held accountable for policy matters by the Legislative Assembly, which continually monitors and challenges government policies and programs through questions during legislative

sessions and through reviews of legislation and expenditure estimates. So we are not commenting on the merits of policy, on any government policy matters, as a matter of practice.

We would extend the same courtesy, of course, to transfer payment recipients. As you know, the focus of that is to see whether they have spent the money for the purposes intended. So the merit of the purposes we won't comment on, but we certainly would comment on whether they have been spent for the purposes intended.

Mr Sciarra: And value for money.

Mr Peters: And, prudently, for value for money. John is quite right. That's the other area we focus on.

With regard to that, we don't interpret this as giving us any further rights to deal with program effectiveness. As you know, under the current act under section 12, we are restricted as to program effectiveness to commenting whether management has measures and reports on effectiveness and whether those procedures to measure and report are sufficient. But we do not comment on effectiveness itself, so that's part of the value-for-money. Where we have a full audit scope on economy and efficiency we have this limitation, which I'm very pleased with and don't want to alter, with regard to effectiveness. If we were to get into that area, we would get into an area of second-guessing with the government, and that's not our purpose.

The other major issue is that we would like to de-link our salary levels from the Ontario public service.

The Chair: You'd like to what?

Mr Peters: Unlink. There is currently a provision in the act that we must use the same classification and pay scales as the public sector, but the problem is that our office is fairly unique in terms of our employees. There are currently precedents. For example, the Ontario Securities Commission, the Ontario Financing Authority, the Ontario Realty Corp and the Ontario Racing Commission are able to set their own classifications and their own pay scales.

Our problem is that currently, particularly at the senior auditor and supervisor category, we are unable to compete with the firms of chartered accountants for the same people. As a result, where I should have my major strength in people, I have a major weakness. This summer we were down to two senior auditors in my office, with a massive number of our employees actually at the student level, where we are competitive. But that is an imbalance I simply have to resolve, and I need help by being able to pay competitive salaries at that particular level.

I would also like to put on the table that clearly the act provides for significant supervision over this and required approvals by the Board of Internal Economy, so it's not a situation where I can willy-nilly determine salary levels. Under the act as it is, and we propose to retain that, I will have to come forward to the Board of Internal Economy and make proposals and obtain the approval to do that. So it is unhitching us, if you will, where we consider it necessary, but there is also the approval.

I wanted to get into one minor issue. Many of you have called my office the Office of the Auditor General. We have in this a proposal to change the name of the office to Office of the Auditor General and my title to Auditor General of Ontario.

The Chair: That's done it make it easier for the members?

Mr Peters: That's right. It's to facilitate.

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Mr Bart Maves (Niagara Falls): If you get that change in title, that will be sufficient. Instead of getting raises, it will be sufficient that you get a better title?

The Chair: I like that, Bart.

Mr Peters: Interesting linkage, but it's certainly not one we made.

It's just a generic name. Again, it is updating. Of the 11 legislative auditor offices in Canada, only three are called provincial auditors. All the others across the system are called auditors general.

Mr Maves: What are the other two provinces?

Mr Peters: Manitoba, or is that—

Mr Sciarra: Manitoba is changing.

Mr Peters: Manitoba's changing as well, so we're down to—

Mr Sciarra: Saskatchewan and Ontario.

Mr Peters: Saskatchewan and Ontario are the only two left in Canada.

Mr Maves: I'd be concerned: isn't the federal auditor the Auditor General?

Mr Peters: He certainly is.

Mr Maves: I'd hate to confuse Canadians.

The Chair: We'll make it the Provincial Auditor General.

Mr Bruce Crozier (Essex): Just because of the ignorance of the members, we don't have to confuse Canadians too.

The Chair: Yes, that's true.

Mr Peters: The other issue I want to touch upon is the budgetary issue. First, I really would like to thank this committee for the work they did in getting us to have the Board of Internal Economy reconsider the \$609,000 they'd allow for. But in light of this extended mandate into transfer payment recipient organizations, we had also said that the \$609,000 was the first in a three-step request to increase the complement of my office from about 85 budgeted positions to 100. That would still leave me, by far, the least-funded audit office in Canada.

In terms of cents per thousand dollars of government expenditure, I would still be at less than one half of the nearest office, which is the federal office, which is at about 33 cents per thousand. I don't know if you're aware of that, but I think I mentioned it before. They were just given a budgetary increase which alone is equivalent to 100% of my budget.

The Chair: They were increased by the equivalent of your total budget?

Mr Peters: Of what my total budget is. I would like to thank you for the \$600,000, but in connection with being able to do discretionary value-for-money audits, I would

like to point out that I can fulfill that mandate within any nearness of reason only if I can increase the complement of my office over the next two years so that I end up with about 100 staff members. Otherwise I wouldn't be able to do much work in this particular area, because my current resources are pretty well employed doing ministry, crown agency and crown corporation audits. Thank you again for the \$600,000 and the support this committee has given me, but in all honesty I do think I have to bring this budgetary item up to you.

With that, I would like to open it for any questions you may have.

The Chair: Just so we're clear: the budgetary item is really something separate and apart from the amendments here. You'd just like us to put more pressure on the Board of Internal Economy.

Mr Peters: No, not quite. What I'm saying is that if it is the wish of the Legislature that I now expand the domain to 170 school boards, 280 hospitals and so many other organizations to do any one of these, and because my office is funded so low—I'm at a bare minimum—I'm so far below the other offices in Canada that to fulfill that mandate with any reasonable expectation of serving the Legislature the way I should, the amount we are talking about over two years is about \$1.2 million, about another \$600,000 in each year.

The Chair: Just so I'm clear, and then I'll throw it open, the kind of audit you would do of, let's say, one of these grant recipient agencies like a school board would not be the kind of audit that is done by their own auditors right now. That is mainly, in many cases like that, purely a financial audit, isn't it?

Mr Peters: That's absolutely right.

The Chair: What would you do in addition to the audit that's already done within municipalities and school boards, delving into what kinds of issues?

Mr Peters: We would delve into the issue of due regard for economy and efficiency in delivering the government services they're charged to deliver. We would go into how they measure and report on their own effectiveness, how they safeguard public assets that are entrusted to them. When I talk about due regard for economy and efficiency, that deals with financial, human and physical resources entrusted to them.

We would also take a look at their reporting practices, their transparency, issues of that nature. There would be a report to the Legislature. That is the additional feature, because the current reports of the financial auditors are essentially addressed to the board of directors of the organization. It would be a more public reporting of due regard for economy and efficiency.

The Chair: Let's go into rotation. I'll start with the government side. Julia?

Mrs Julia Munro (York North): I just have one question. You were talking about doing the various agencies. The Ontario Hospital Association has initiated a format for assessment of the hospitals. I don't know if this is a fair question in the sense of, would you know anything about that kind of thing? My question came

from the notion that would they have the opportunity to do something like that. I realize yours would probably fit in with a single hospital, if we were to take this idea. How would your analysis differ from that of maybe a group like the Ontario Hospital Association?

Mr Peters: There would be no duplication, because we would take their work into consideration. In fact, we are aware of the report cards that have been developed by the hospitals. It would certainly be taken into consideration in our audit in several aspects.

First, its very existence, of course, is intended to go a long way toward improving the performance of hospitals. That would ultimately be to the benefit of everybody, and we would be aware of that. We would certainly take a good look at it. Also, interestingly enough, that report card is really a wonderful initiative in itself because in many hospitals—at least in some I've seen—the report card has already been made public.

Certainly initiatives such as the one taken by the Ontario Hospital Association are totally appreciated and will be taken into consideration, and would, in fact, reduce the work. It would also give us an opportunity to report back to you as the legislators on whether the report card is all-encompassing, whether there are areas where improvements could be made. For example, one idea that was advanced to us already by some people is that currently it deals largely with the human and service element but does not deal with where they stand on the state-of-the-art or capital equipment used by the hospitals.

I think the president of the hospital association—who has made a very interesting presentation, incidentally, on that to the second Ontario Financial Review Commission—certainly does not view this as a static development. He views it as a dynamic development where they make improvements over time. Certainly we would take that; there would be no duplication. As we do right now, virtually any performance evaluation or performance reporting that is done by the ministries is taken into consideration by us, and it would fall into the same category.

1030

Mr Crozier: I just want to say at the outset that I'm in full support of the recommended changes to the Audit Act as they have been discussed over the years. I'm kind of revisiting, having been on this committee previously and having been in support of them then.

I agree with you your comments about not auditing policy as well. But I wonder if you could just explain to us that fine line, where it may be government policy that results in grants being given to various organizations, but agreeing that the policy itself shouldn't be audited. How would you do the value-for-money audit in view of that? How would you draw that line in your value-for-money audit?

Mr Peters: Essentially by auditing whether the monies are being used for the purposes intended. Let me just give you an almost humorous example that I normally use, if I can do that.

Mr Crozier: A little humour never hurts.

Mr Peters: If the government were to decide to give every homeowner in Ontario \$100 for digging a five-foot hole in their backyard, we may have all sorts of views and there may be all sorts of debates in the Legislature as to the merits of that particular policy. We would—

Ms Marilyn Mushinski (Scarborough Centre): Depending on who they're going to bury in it.

Mr Peters: That may be one purpose. But our audit would only extend to the fact that they are paying \$100 only to those people who actually dig a five-foot hole, not paying somebody for a three-foot hole, not paying \$500 to somebody who only should be getting \$100, or paying somebody for not digging a hole at all.

So the merit of the policy that created that is outside our commentary, but the administration of the policy is what we would audit. For example, if you have in Community and Social Services a home for the disabled, and they are given money for the disabled, we would not question the policy of giving money to a home for the disabled, but we certainly would raise questions if the head of that agency bought himself a Cadillac with it—that sort of thing. Not that we know of anybody who has.

Mr Crozier: No. In the area of funding that you mentioned, it's always difficult for me to rationalize. If you're underfunded compared to the federal government or other provinces, that may be the case, but there may be a number of reasons why that's the case. I certainly support adequate funding, and I think we have to be competitive to get the best people in the job. But perhaps the funding should be approached—and I'm sure it would be—from the basis of what it is you really need. It doesn't matter what somebody else in Manitoba or anywhere else pays, but your budgeting would be based on the needs of your department, and I assume that would be the case.

Mr Peters: That is totally the case. It goes beyond it, really. I also have to take into consideration the needs of the Legislature. As I pointed out in the previous one, when I started, in the first year in 1993 we were able to present this committee with 21 value-for-money audits. In the upcoming report, I believe we have 11. So we had to cut back.

At the same time, the mandates of the offices across the country are relatively similar. For example, Alberta does a lot more attest work—that is, financial statement audits—than we do because in Alberta, hospitals, universities and the health care system, I believe, are audited. The individual organizations are audited for attest purposes by the Auditor General. Well, of course, we don't audit universities or hospitals in Ontario. On the other hand, we have 47 fairly large organizations and, as the Provincial Auditor for Saskatchewan always reminds me, he can always add one or two zeros after any number that he has when you compare this with Ontario. We are roughly in staffing levels equivalent to Saskatchewan, just slightly above.

Mr Richard Patten (Ottawa Centre): The spirit of the letter Ernie Eves sent back to you referring to the Ontario Financial Review Commission was, "Let's look

at things in light of the recommendations from that commission." Is that complete?

Mr Peters: Yes, that report has been published I believe at the end of April. I forget the exact title; Raising the Bar: Enhanced Accountability in the Province of Ontario, something along those lines.

Mr Patten: Is that a big report?

Mr Peters: It's a fairly big report. It certainly deals with, as they are referred to in the report, the key transfer partners and it makes quite a number of suggestions as to how to improve the transfer payment accountability. It is to be, to the best of my understanding, incorporated in a piece of legislation that will also come forward I believe, which is called the Public Sector Accountability Act. There is a direct relationship between the two because, right from the outset when I arrived, I always felt it was necessary that in order to achieve value for money from transfer payments there had to be a legislated framework in place for management to achieve value for money. It wasn't good enough for the taxpayers of the province for my office to come in and do pre-audit audits if they are achieving value for money. It should be part of the day-to-day responsibilities of management.

There is a distinct link here between the report from this Ontario Financial Review Commission leading to a Public Sector Accountability Act, which in turn would make the amendments that we are proposing to the Audit Act far more efficient to implement and easier to work with. For example, that's why I'm asking for only a relatively small increase in funds to accommodate it, because I hope that this framework will go a long way in establishing better transfer payment accountability in the public sector. So that's the linkage I established. As I said in 1993 and I say now, there is a link and certainly our work would be enhanced by the existence of a legislated accountability framework for the transfer partners of the government.

Mr Patten: So, in summation, you've taken into consideration the recommendations of that report as you've drafted the amendment.

Mr Peters: Very much. We have adapted the amendments slightly. The timing was such that when we discussed this last, I believe in February of this year, that report was not out but I was aware of it because I was appointed by the minister as a special adviser. So I was aware of it and took it into consideration.

Mr Patten: Good. Anyway, I'm supportive of it.

Ms Shelley Martel (Nickel Belt): What commitment, if any, have you been given by the government that this legislation will go forward, and were you given a time frame?

Mr Peters: I don't know a time frame but I know, of course, as we all do, that it was mentioned in the speech from the throne on April 19, that it was one of the agenda items. I believe it was one of the 21 agenda items that the government put forth in the speech from the throne. So the commitment is there; it's public. But when exactly, I'm not sure.

The Chair: Just so I'm clear, how are these amendments different from the 1996 amendments on which

there were public hearings, the way I understand it? Are they basically the same, subject to minor amendments that you've made as a result of your discussions with the Ministry of Finance? Would that be a fair assessment?

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Mr Peters: That is a fair assessment. The changes from 1996 to now are fairly minor.

Mr John Hastings (Etobicoke North): Mr Peters, in your reorganization of the office and the appointment or hiring of new staff, will you make recommendations to the Board of Internal Economy as to salary ranges for old and new staff?

Mr Peters: I would have to do that if I'm departing from the OPS scales, but with the OPS scales, we just inform the board that those are the scales which we are paying, because they are set by the Management Board Secretariat.

Mr Hastings: But your recommendation is to decouple.

Mr Peters: To decouple, and once we decouple, then we would have to go forward to the board and say to the board, "This is what we have been paying, this what we are proposing to pay and this is why we want to do it." I have to seek their approval for that; I have to explain that in great detail, I'm sure.

Mr Hastings: So what will be your organizational model?

Mr Peters: The organizational model will essentially not—

Mr Hastings: The Auditor General of Canada?

Mr Peters: No. It would be our own model that we are using. As I tried to explain, it would overcome the weakness that is in our organization at the moment. That is, because of the constraints we were under, approximately 40% of my complement are students who are moving towards an accounting designation. There will be a shift in that. One of the things that is happening to us is that once the students obtain their accounting designation, it is profitable for them to seek employment elsewhere because of the limitations imposed on me by the OPS salary range at the audit senior level. Audit senior is somebody who has completed the studies, has obtained an accounting designation and has at least two years of experience in the field. These individuals are highly sought after, and right now, in dollar terms, I cannot compete. Occasionally we can compete when there's a downturn in the economy; then things seem to even out. We would take that into consideration, of course.

Mr Hastings: Your salary ranges for existing staff across the province are the third-lowest or the second-lowest?

Mr Peters: No, we have not done a comparison of the salaries, but I wouldn't rank us lowest. We are probably fairly within range. It is just that we are competing for staff in a different market than, say, Regina, Prince Edward Island or Quebec City.

Mr Hastings: What salary ranges would you use as your model?

Mr Peters: We would probably use the major CA firms, medium to major-size CA firms, as a model, be-

cause they are doing roughly the same kind of work and have the same kind of people. The other model would be such organizations as the Ontario Securities Commission and the Ontario Financing Authority, which are both broader public sector organizations, and they have been given the right to pay their people.

Mr Patten: There's a commission you could audit.

Mr Peters: I do.

Mr Hastings: With respect to charge-back fees, you have mentioned before, I think—I can't think of specific examples—where are there charge-back fees for ministries providing services to other ministries or agencies in the government? Isn't there such a thing?

Mr Peters: Yes, it happens.

Mr Hastings: Can you think of one?

Mr Peters: Yes. Offhand, for example, under the Ontario drug benefit program, certain welfare recipients are entitled to drug benefits and, for example, the Ministry of Community and Social Services will pay the Ministry of Health and Long-Term Care for drug benefits received by welfare recipients.

Mr Hastings: Similarly, then, what is your philosophy about charge-back fees? Should charge-back fees be applied to the new entities you are about to audit when this legislation gets passed, ie, hospital boards, transit authorities—there are grants going to them, I guess—and school boards?

Mr Peters: Could you help me out: what sort of financial transactions do you have in mind?

Mr Hastings: Assuming this legislation passes, you will have the authority to audit a school board.

Mr Peters: Right.

Mr Hastings: School board X. So it will take you X number of person-hours or -weeks to go through their books for a given past fiscal year, so you or your staff will be there X number of hours.

My question is, do you think you ought to apply, under the regulations when they're developed, a charge-back for the hours that you or your staff are there, depending on the circumstances, at school board X where you're auditing whatever year?

The Chair: A charge-back to the school board or to the Ministry of Education?

Mr Hastings: Charged back to the school board for your staff hours put in auditing school board X.

Mr Peters: It's a fair question. I would like to answer it this way: I really have only one client and that is the Legislative Assembly of Ontario. It is the Legislative Assembly of Ontario which, by way of a vote and statute, pays my office. The school board would be the auditee. As a result, hopefully there may be, and I am sure there will be, benefit to the school board from our work. But the client to whom we report is the client that normally has to pay the freight and that, in this case, is the Legislative Assembly of Ontario.

If the Ministry of Education decides to build a feature into the school board funding—if you recall, because of the local services realignment, school board funding is now entirely a provincial responsibility, so it would just

be a circuitous way of paying out of the same pocket, if you will.

Mr Hastings: Isn't the charge-back between ministries really circuitous, but done for a purpose? Isn't it to show what the costs were for the number of people who were getting paid from one purse rather than the other? It's still the same purse. Is there any value to it, I guess, is the further question?

Mr Peters: It's a good question. If you were to talk to the Ministry of Community and Social Services, they would probably say it's a by-product. They are just saying that under the welfare act they are charged with a responsibility to ensure that people on welfare are getting certain drug benefits by the ministry providing that. But in the vote, when they come forward to the Legislature, Community and Social Services will ask for that amount of money and the Ministry of Health will take it into revenue so the overall amount that is being spent on this particular issue remains the same. So it's just a loop within a loop.

The question I'm raising on this is, because the Legislature is my client and they are the auditee, like everybody else, would we want to create a separate loop or do we just leave the funding as the Legislature receiving the service from my office as an office of the Legislature, and leave the funding there?

As far as the financial statements audit of the school boards is concerned, that is already funded. That is paid to outside auditors on that basis, and the amount paid to the outside auditors of course is built into the school board funding.

Mr Hastings: On the issue of the Ontario Financing Authority and the Ontario Securities Commission, in the second case, the OSC now charges the brokerage industry—other companies; mutual funds, I guess—for the services they provide, whether it's compliance, registration and so on. What happens to the pension contributions of the staff at the OSC? Do they go into the general pension plan of the province, even though they get their funding now from the industry they regulate?

Mr Peters: Yes. The Ontario Securities Commission actually has dual funding. There was a start-up amount given of about \$20 million, I believe, by the government to ensure that the fee actually covers the cost. Also, the securities commission does return to the province excess—

Mr Hastings: Any surplus?

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Mr Peters: Surpluses and excess amounts. To some extent, under some arrangement, they can be ordered by the Minister of Finance, I believe, to pay back certain amounts based on their financial performance. So yes, there is a fee for service to outsiders.

The Ontario Securities Commission's clients are to a certain extent—of course it's public policy that they have to regulate the stock exchange and who can trade there, but there is a benefit to listing to the organizations that list with the Ontario Securities Commission.

To give you a further example, I am actually the auditor of the Ontario Securities Commission.

Mr Hastings: You are?

Mr Peters: Yes, and I don't charge. We do that within the funding envelope we receive from the Board of Internal Economy.

Mr Hastings: I find that fascinating.

Mr Patten: Do they give you any stock options?

Mr Peters: Of course not.

Mr Hastings: You would think the OSC, now that it's more independent, would prefer an external audit. It can't do it under the legislation, I assume.

Mr Peters: Oh yes, they can.

Mr Hastings: So they can pick you or they can pick auditor Z?

Mr Peters: They can pick auditor Z. Certainly there are a whole raft of factors that are taken into consideration in the appointment of auditors, but one of the advantages that my office clearly has is that we are not involved in any listings.

Mr Hastings: That's true.

Finally, since you have preached from the bible of value for money for so long and you now want to have a changed name, from auditor to auditor general, your office presumably has correspondence, paper, letterhead etc, under the old title, and will have until this gets changed, whenever that is. I guess it'll be up to cabinet. Will you promise faithfully to execute the use of the old paper so it won't get thrown out? Do I have every assurance that you will use the old stuff up before you use the new?

Mr Peters: I gladly promise that, because we'll order our paper on a just-in-time basis from now on, so we don't have significant stock.

The Chair: You shouldn't have to order your paper at all. Don't computers give you letterhead now?

Mr Peters: They certainly do.

The Chair: You're not old-fashioned and still ordering paper are you?

Mr Peters: There is a distinction made between draft paper and final letterhead.

Mr Hastings: That's finely printed letterhead.

Mr Peters: That's right; neat quality paper.

The Chair: That's only when you're corresponding with government ministries.

Mr Maves:

Mr Maves: I only have one question. I support the expansion of the ability of the auditor to do audits of colleges, universities, hospitals and others. I've had a private member's bill pass in the Legislature so I'm on the record as supporting—

The Chair: I modelled my bill on your bill.

Mr Maves: You copied my bill. You stole my bill, Chair.

The Chair: There is a difference. Take a close look.

Mr Maves: My question is, was there a point in time when there was a municipal auditor who did value-for-money audits of municipal spending? If so, what happened to that? I was under the impression that at one

time in the province there was a municipal audit office similar to yours that would go and do value-for-money audits of municipalities. I don't know if that's true or not. If it is, what happened to it?

Mr Peters: There was. It was actually more structured along the line of an internal auditor, because it reported to a number of ministries that were involved with the municipalities; for example, the Ministry of Transportation with regard to grants for the road system, and municipal affairs itself. Offhand, I can't name the others, but maybe even agriculture and environment were involved in one way or another with municipalities. That was structured as what is now called a cluster office, if you will, and would have been considered an internal audit office. I forget the exact year it was disbanded. Quite frankly, at the time it was done I did oppose the disbandment. I thought it was a good idea.

Ms Mushinski: I think it was the Liberal government, actually.

The Chair: No, I think it was the previous Conservative government—the enlightened Conservative government, Mr Davis's.

Mr Peters: Yes, you're quite right: there was such a structure in place. In fact, our role in doing municipal audits is not quite as clear-cut yet. I think that particular area and domain of audit, firstly because we're dealing with separately elected councils, causes a certain amount of concern. But there's also a second issue involved, and that is how the government is going to deal with municipalities in the Public Sector Accountability Act. Again, if they include it, I will include it. If they exclude it, I may have to exclude it, depending on the reason for which it was excluded. But that is an area we would have to closely look into.

Also, because the granting system—for many years, with regard to municipalities, they had received grants for a specific purpose. Late in the last few years, that has changed to almost an unconditional grant. And of course the minute the grant recipient receives an unconditional grant, in fact it becomes of not much use for me to audit, because what criteria do I use as to what purpose it was intended for?

Mr Maves: I think it's more along the lines of, with all the municipalities and the size of all their budgets, if you add them up, it would be valuable to have a municipal auditor who just went into certain municipalities and did value-for-money audits on them, regardless of any connection with the provincial government. They are a creation of the province, and I just think it would be a valuable tool.

There used to be a mayor of Kingston who wasted money like crazy, and to have had a municipal auditor go in there would have saved that city millions of dollars.

The Chair: That was back in the 1960s and the 1970s, yes.

Mr Peters: Chair, I don't know whether you want to comment on that.

I certainly would advocate that. As you know—well, you may not know—in the last election campaign in the

city of Toronto, the mayor made the proposal for an auditor general of Toronto. In fact, we were approached, both directly and indirectly, to see if we could help them set that up. I've done so—I have not done so personally, but by playing traffic cop, persuaded the retired—not persuaded; I let them negotiate that. But I suggested approaching the former Auditor General of Canada, to see if they could help the city to do that. I believe that work is currently underway.

So it's up to the municipalities in that regard. Certainly, if the Public Sector Accountability Act were to extend that act to municipalities, any value-for-money work that is done at the municipality would certainly be taken into consideration in determining the scope of our work. That's another commitment I can certainly make, because we are doing it all along.

Mr Patten: It has been 20 years since there have been any amendments; is that what you're saying?

Mr Peters: About that, yes.

Mr Patten: During that period of time, both the percentage of the provincial budget in terms of money that goes to transfer agencies—money that is transferred out of the budget—has grown, and presumably as well, which is the underpinning of why we need to expand your role in terms of public accountability, there has been an increase in commissions or agencies that have picked up doing what the government used to do itself within its own budgetary framework.

Your audit adjustments are not simply limited to those agencies that receive portions of money out of the provincial budget, are they? I mean, there are agencies that you have the opportunity to audit. Does this cover that? In other words, what about Ontario Hydro or some of the other big agencies that carry on things on behalf of the people of Ontario?

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Mr Peters: There are quite a variety of practices in place. I'll give you one example: the WSIB is audited under the direction of my office, both as to attest audit as well as value-for-money audit. But they have legislation that asks the board to arrange for value-for-money audits directly and we review the work; we have a direct responsibility on those.

As far as audits on which we are the appointed auditors, we can by extension apply all provisions of the Audit Act already. We could, for example, carry out a value-for-money, as we have done—was it last year, or 1999?—of the Liquor Control Board of Ontario. So where we are the auditors, the full scope—Agricorp, for example—

Mr Patten: You have that now.

Mr Peters: We have that now.

Mr Patten: What about the Ontario Racing Commission?

Mr Peters: Yes, we do.

Mr Patten: So where is that in the act?

Mr Peters: I believe that's within section 12. In other words, the reporting section 12 comes into play because it says what we shall report on in every audit. So we can

report on the organization just on the attest audit of the financial statement or, if we have done other work, then we would report under section 12.

Mr Patten: Let's take, for example, the Ontario Lottery Corp.

Mr Peters: Which we just lost as an audit. It just went over to the Alcohol and Gaming Commission, I think—the Ontario Casino Corp.

Interjection.

Mr Peters: It still is, but it's now audited by a private sector auditor.

Mr Patten: Some of these may be part of your tour to look at every once in a while, and to examine.

Mr Peters: That's right.

Mr Patten: So that doesn't change. What you're saying is really the transfer agencies—municipalities, universities, colleges, that kind of thing.

Mr Peters: Yes. The important feature of these organizations, though, is that they derive their income other than from votes of the Legislature.

Mr Patten: Yes, that's right.

Mr Peters: The main purpose of our amendment is really so that we can follow the money from the Legislature all the way down. That would be the distinction.

The Chair: Any further comments? Just a question: I take it that back in 1996, when there were presentations made by 17 different organizations and individuals, most of the larger organizations, such as the Ontario Hospital Association, Ontario universities and school boards, were against your having this power, these additional responsibilities. Is that correct?

Mr Peters: That is correct, and we reacted in the amendments to the act accordingly.

The Chair: So those amendments have been taken into account in the revised amendments now?

Mr Peters: That's right. I can give you a specific example, if you don't mind.

The Chair: OK.

Mr Peters: The hospital association was very concerned about access by my office to medical records. As a result, we invited the privacy commissioner—actually, the committee invited the privacy commissioner—to make a presentation on that issue to the committee. The upshot of it was that the section specifically—I forget the number, but in the draft, in the proposed amendments that you have, there is a specific section dealing with these kinds of records. That was not only drafted by the privacy commissioner directly with legal counsel, but it was also updated less than a year ago, I believe. When the issue came up again in the speech from the throne, I went back to the privacy commissioner and said, "That's what you said at that time about medical records. Where do you stand now? Has there been a shift?" and they have been updated for the comments. So they're really current on advice by the privacy commissioner.

The other organizations largely had—well, this is a problem we might want to address. Some organizations felt that because they received a little bit of money, it shouldn't branch out into a massive value-for-money

audit of an organization. The extreme example that I've always used, and it's deliberately extreme and totally unrealistic: assume General Motors of Canada gets a \$1-million grant for an apprenticeship program. Certainly, we would not interpret this as our being able to do a value-for-money audit of General Motors of Canada. There would be lower practical limits. Currently, for example, many of the social agencies spending money on behalf of the Ministry of Community and Social Services will receive \$100,000 or \$75,000. I would consider it not practical to consider that. There will be a practical limit above which—as we do currently with government programs. A government program must spend a certain amount of money or must have some other social impact on a large number of people before we would consider it, in our audit risk assessment, as a candidate. The same approach would be taken to transfer payment agencies.

Mr Patten: They're audited anyway.

Mr Peters: The financial statements are audited anyway.

The Chair: But let me ask you something very practical. There are a lot of hospitals out there, and a lot of universities, colleges and school boards. How would you determine on an ongoing basis, "OK, I'm going to look at hospital A or school board B"? What determination do you make in that? How would you decide that?

Mr Peters: We would run, probably, as we do on government programs right now, quite an extensive risk assessment; that would be complexity of the work they're doing, the amount of funding they receive, problems that have been identified. Our first approach would be, of course, to go to the transfer-payment-making ministries to determine the controls exercised by the ministries already over it. For example, what are the qualities of the administration of hospital funding by the Ministry of Health and Long-Term Care, or Comsoc on homes for disabled, or young offenders institutions? We would look at that, actually, first. That would then develop the risk assessment and would also determine how far down the pipe we would go in auditing individual organizations as we go along. That would be the first approach, because virtually all transfer payments are made by one ministry or another. So that would be the first approach, and from then we do a risk assessment.

So the first assessment would be really the quality of the work the ministry is doing in administering the funds,

and then we would take the next step; for example, as we did on curriculum development for school boards, or on our university audits. We would first look at the ministry doing the work on universities and then we would move on from there.

The Chair: Any further comments? All right.

I take it that back in 1996, just going from the notes here, basically a motion was passed by the committee that indicated that the proposed amendments were provided to the Ministry of Finance and that we would request some sort of response from them in that regard. I'm open to any motion you want to make at this point in time. Does anybody want to make a motion? We've got this information. Do we want to follow up on it and go to the Ministry of Finance and say, "We think these amendments to the Audit Act are a good idea. We'd like you to do something about it"?

Mr Maves: I'll make a motion, Chair, that the committee continues to support the expansion of the Provincial Auditor's responsibilities—

Mr Peters: Audit domain.

Mr Maves: Audit domain? That sounds good—and that we would appreciate the Ministry of Finance taking the Auditor's draft Audit Statute Law Amendment Act, 2001, into account when drafting amendments to the Audit Act.

The Chair: Could we go one step further, that we urge them to proceed with bringing the legislation forward to actually make these amendments a reality?

Mr Maves: Yes, I don't mind urging them. I've urged them with bills.

Mr Peters: May I make a small—you used the word "ministry." Could we replace that with the word "minister"? The ministry is being audited by us; the minister is the sponsoring minister, and the motion in the past went to the minister. Could it go to the minister as well?

The Chair: Any problems?

Ms Mushinski: That's fine.

The Chair: Is there a seconder for that? Do we need a seconder? We don't need a seconder. Well, that's easy.

Any further comments or discussion? All those favour? Opposed? It's carried unanimously.

The meeting is adjourned until next Thursday.

The committee adjourned at 1110.

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ISSN 1180-4327

Legislative Assembly of Ontario

Second Session, 37th Parliament

Assemblée législative de l'Ontario

Deuxième session, 37^e législature

Official Report of Debates (Hansard)

Thursday 25 October 2001

Journal des débats (Hansard)

Jeudi 25 octobre 2001

**Standing committee on
public accounts**

Subcommittee report

**Comité permanent des
comptes publics**

Rapport du sous-comité

Chair: John Gerretsen
Clerk: Tonia Grannum

Président : John Gerretsen
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LEGISLATIVE ASSEMBLY OF ONTARIO

ASSEMBLÉE LÉGISLATIVE DE L'ONTARIO

STANDING COMMITTEE ON
PUBLIC ACCOUNTSCOMITÉ PERMANENT DES
COMPTES PUBLICS

Thursday 25 October 2001

Jeudi 25 octobre 2001

The committee met at 1114 in committee room 1, following a closed session.

SUBCOMMITTEE REPORT

The Chair (Mr John Gerretsen): I'd like to call the committee back to order in open session to deal with Bill 95. First of all, we have the report of the subcommittee, which I believe has been handed out to everybody. Would somebody like to move it?

Mr Bruce Crozier (Essex): I so move it be adopted.

The Chair: You'll have to read it into the record.

Mr Crozier: Oh, sure. I move the report of the subcommittee that met on October 24, 2001, and that the recommendations be adopted with respect to Bill 95, Ethics and Transparency in Public Matters Act, 2001:

(1) That the committee meet for the purpose of conducting public hearings on Thursday, November 22, 2001, and Thursday, November 29, 2001, in Toronto;

(2) That an opening statement of 10 minutes be made by the private member;

(3) That the committee advertise on the Ontario parliamentary channel and on the Legislative Assembly Internet; that the deadline for those wishing to make an oral presentation be Thursday, November 15, 2001; that the deadline for written submissions be determined at a later date;

(4) That each caucus will submit to the clerk of the committee the names of any witnesses they wished to be scheduled, by Thursday, November 15, 2001;

(5) That the clerk of the committee will submit the names of those who have responded to the ad and the names that have been submitted by each caucus to the subcommittee members by Friday, November 16, 2001;

(6) That the subcommittee will meet on Monday, November 19, 2001, to determine the length of time to be allotted to witnesses for their presentations, and those witnesses to be scheduled;

(7) That subcommittee will meet at a later date to determine whether further public hearings are required and determine dates for clause-by-clause consideration;

(8) That the research officer will prepare a background paper for the committee on any parallel policies in other Canadian/US jurisdictions for Monday, November 19, 2001.

The Chair: That's been moved. Any comments by anyone?

Mr Richard Patten (Ottawa Centre): You're not recommending we travel the province?

The Chair: That comes later.

Mr Bart Maves (Niagara Falls): Why stop there?

The Chair: Any comments by anyone? All in favour of the subcommittee report? Opposed? Carried.

Then there's item 3, Bill 95. Do you want to have any discussion on it now? Does anybody want to say anything? If not, then we're adjourned.

Mrs Julia Munro (York North): I move we adjourn.

The Chair: Seconded? Carried.

The committee adjourned at 1117.

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Second Session, 37th Parliament

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Deuxième session, 37^e législature

Official Report of Debates (Hansard)

Thursday 1 November 2001

Journal des débats (Hansard)

Jeudi 1^{er} novembre 2001

Standing committee on public accounts

Special Report,
Provincial Auditor:
Ministry of Consumer and
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Comité permanent des comptes publics

Rapport spécial,
Vérificateur provincial :
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STANDING COMMITTEE ON
PUBLIC ACCOUNTSCOMITÉ PERMANENT DES
COMPTES PUBLICS

Thursday 1 November 2001

Jeudi 1^{er} novembre 2001*The committee met at 1002 in room 151.*SPECIAL REPORT, PROVINCIAL AUDITOR
MINISTRY OF CONSUMER
AND BUSINESS SERVICES

Consideration of section 3.03, project to automate the land registration system (Polaris).

The Chair (Mr John Gerretsen): I'd like to call the committee to order. Today we're dealing with section 3.03 of the 2000 Special Report of the Provincial Auditor, specifically the project dealing with the automation of the land registry system, Polaris.

We have with us Deputy Minister Sandra Lang—welcome—and various officials from your staff. What I propose to do is to have rounds of, let's say, 20 minutes, and we'll see how much time is left after the first hour, and we may have to contract the time a little bit.

Is there anything you wanted to say at the beginning, Ms Lang?

Ms Sandra Lang: Yes. Thank you very much, Mr Gerretsen.

The first thing I'd like to say is that I'd like to thank the committee for its patience in giving us an extension of the time frame. As you know, we have been extremely involved over the last several months in the renegotiation of the agreements, which is what we indicated the last time we appeared before the committee was going to be our major agenda. That has taken a significant amount of time and certainly the energy of most of the people who are here with me today. First of all, I did want to extend our thanks for giving us the extension that you granted to us last month.

The other thing that I would like to indicate is that we have almost completed our negotiations, and we're very pleased with the results of the negotiations that have occurred over the summer and are quite encouraged by the going-forward agenda that we have almost ready to take forward to the government for their consideration and to the company for their consideration. I think we've had a very productive summer and certainly feel much more comfortable with the direction that we will be taking as a result of our renegotiations of the agreements with the company.

The Chair: OK. Thank you very much. Just for the record, there was a letter sent to you on June 28 that had 12 different questions attached thereto. You have not

provided the committee with a written response to that. Oh, I stand corrected. You have given a written response to it, but you have not answered those questions in detail in that response; is that correct?

Ms Lang: Yes, and I think that's fair. Part of the reason, as we attempted to explain in the letter, is that it's important to have the context around the nature of the business model and the nature of the agreement and the negotiation that we've almost concluded in order to understand the specific responses to each of those questions. So in our response, we attempted to provide some of the context that would characterize what we have been up to over the last several months and where we think the arrangement is going and the future direction for the implementation and the continuation of the land registry system.

So in order for us to be able to deal with the specifics of those questions, I think it was important to set the context of the going-forward strategy in the agenda that's emerging as a result of negotiations we've concluded this summer.

The Chair: OK. Well, I'll start with the rotation, then. Any preference as to where we start? Government?

Mr Bart Maves (Niagara Falls): No. Actually, why not start with Ms Martel? She's the one who has so many questions.

The Chair: Do you have any objections to starting first, Ms Martel? OK.

Ms Shelley Martel (Nickel Belt): Thank you. Deputy, I'd like to start with the questions. I appreciate what you provided us with, but many of them weren't answered, and I'm hoping today during the public session we can get some answers with respect to this project.

We're operating in a bit of a vacuum in terms of the committee, because you would know more about what the final lay of the land is than we, so I appreciate you might not be able to answer some of this, but I would ask that you give us as much as you can so that we might get some comfort from where this is heading.

The first question had to do with revenue that Teranet would receive under the licence if nothing changed. This goes back to Teranet saying in April 1999 that they might not complete this project until 2011. Obviously a lot of government revenue could go out the door if that were the case.

Can you tell me, if nothing changed—and I'm hoping something is going to change—what is the government

anticipating its revenue flow would be if we were actually looking at a 2011 completion date?

Ms Lang: If we were looking at a 2011 completion date, the revenue flow would probably be somewhere around \$1.5 billion, and that's the net of the royalties—

Ms Martel: Net, OK.

Ms Lang: But I think, Ms Martel, in order to be able to understand where this thing is going—and I've love to be able to update the committee—

Ms Martel: I'd love if you could.

Ms Lang: —on the status of the negotiations, I think it would be very useful for the committee to have the benefit of our opportunity to share with you where we are with our negotiations and what we think we've been able to achieve over the summer, and then talk to you a little bit about how the math will unfold as a result of that.

So if that would be suitable, I'd be quite delighted to start there.

Ms Martel: I've got \$1.5 billion net of royalties if nothing changed, and I just want to finish with question 1. How would that compare to the estimate in the original business case? Was it \$275 million?

Ms Lang: Well, I don't think the original business case had a specific number in terms of revenue that was going to be transferred. I don't recall that being anywhere in the original business case.

The actual transfer of revenue and the cost of implementation are different numbers and different things.

Ms Martel: The \$275 million is the implementation cost that was projected in 1991, and you're not clear that anywhere in the business case the revenue stream was actually outlined?

Mr Dave Roote: I'm Dave Roote, assistant deputy minister of the registration division of the ministry.

It wasn't identified as a specific request for approval of money to be flowed to the company in a quantum sense. There was reference in there that in the approval to enter into the agreement with the company, there would be a transfer of revenue as part of that arrangement in order to fund the project, but it wasn't itemized as a specific approval request for the quantum of money to be transferred.

Ms Martel: Was it announced publicly at any point?

Mr Roote: Not that I'm aware of.

Ms Martel: OK. So you can't give us a figure at this time? All right. Go ahead, Deputy.

Ms Lang: What I'd like to do, then, is turn it over to Sue Corke, who is our ADM in charge of policy. Sue has also been our senior negotiator, lead negotiator, over the course of the summer, and I think would be quite happy to share with you how we've progressed.

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Ms Sue Corke: Thank you very much. I'm Sue Corke, ADM of policy and consumer protection services in the ministry.

When we last appeared before the committee, there was a lot of concern about information that had been obtained that the automation and conversion project would not be completed before 2010, I think was one of

the outside numbers, and that it might be in excess of \$1 billion. I think those were some of the anxieties expressed by the committee. We replied at that time that those costs and timelines would not be acceptable to us and that, if necessary, we would complete the implementation project without finishing all of the 100% of properties in Ontario to prevent such costs from occurring.

I'm pleased to report that we've had very successful discussions with Teranet over the last 12 to 13 weeks—very intensive, a lot of work, a large number of hours per week and sometimes into the night—on a range of issues, specifically, though, the costs and timelines for the implementation project.

We looked at seven or eight different scenarios with Teranet, taking a look at their assumptions for forecasting in great detail, looking at efficiencies and best practices that we built in over the last 10 years of activity together.

The preferred approach—and I have to say that this has not been signed yet and the contracts are still being worked on; the Teranet board has been apprised and is supportive, but the final, final inking hasn't occurred yet—results in electronic registration being available for a substantial number of properties in Ontario, about 87% to 88%, in all communities over 5,000 in population. So that's our preferred approach at the moment. The incremental cost of this work from March 2002 is about \$215 million. The incremental cost from March 2002 until completion is approximately \$215 million.

Again, I caution you on the precision with those numbers, because it's not quite finally inked yet.

Ms Martel: Can I ask you one question there? The \$215 million, would I refer to that as an implementation cost?

Ms Corke: Yes. Automation and conversion.

Ms Martel: It's a government cost.

Ms Corke: No. It's the cost to Teranet of completing the project.

Ms Martel: So that has nothing to do with the revenue?

Ms Corke: I'm not talking about the revenues at this point in time; I'm just talking about the costs, because that was in fact the anxiety at the last meeting, whether the costs were soaring out of control.

The Chair: Is that an additional \$215 million, or is that the total?

Ms Corke: Yes, it's in addition; it's incremental cost of proceeding to substantial completion. It would bring the total spent on implementation and automation to just over \$680 million, and that's about \$560 million without interest and depreciation.

So the numbers are, the total for the whole implementation and automation project: just over \$680 million, about \$555 million to \$560 million without interest and depreciation. The estimated time of completion of this project is about 2007, somewhere between third and fourth quarter, 2007.

Again, I have to say there's still fine-tuning going on here. There are a lot of assumptions underlying that

model. I would say, though, that we've had on that model, that forecasting model, a third party due diligence done to make sure that the methodology is sound and that we have in fact done as much due diligence as we ought to have done, that we do in fact understand what the going-forward assumptions are behind that model.

As we've said before, and as I think those of you who were ever involved with this would know, the project is very complicated. There are a lot of unknown features around the mix of PINs, the complexity of PINs and the volume. The numbers change all the time, and the more healthy the economy is, the more the volume of PINs changes over the course of the project.

So we looked at all the assumptions in the forecast and incorporated lessons learned from the past 10 years, but it is important to recognize that we need to have control of these timelines and numbers, because costs could change again. I think the trick here is to have a cap on costs and a cap on the timelines and a way to manage very precisely and diligently how those timelines and costs are being tracked over the next few years and to make sure that we have the ability to manage those costs and time targets and to make informed choices about finishing the project or finishing at a lower percentage completion, making trade-offs.

We've spent a lot of time negotiating a governance process with Teranet. This governance process actually has a performance management framework associated with it that has us reviewing on a quarterly basis. If there's substantial variance over more than four quarters, we take action, we take a look at those numbers, a third party look at those numbers, and we make decisions as we go along about the extent to which we are prepared to incur any overruns or not so that we actually have a firm, strong management framework. This will be contractually reflected.

Ms Martel: Sorry. Just to clarify, the third party review would be after four quarters, where you notice a problem after four quarters?

Ms Corke: Yes, if there's substantial variance. If there's any variance at all by quarter, they are in a heavy-duty disclosure mode. We need to know exactly why. Because now we understand so completely the assumptions behind the forecasting, it's very easy to have the conversation about which assumption is not bearing out.

This is not a fault-blame situation that I'm talking about here; this is accepting the fact that it's a complex project, but it gives us the management tools and the accountability techniques to be able to actually call it a day if it's going to be more expensive than we want it to be.

The results of the evaluation that we would do on a substantial variance would include options for cabinet to decide on what the going-forward strategy should be. There are, of course, built into this performance model termination options for breach of material obligation and wilful failure to perform, or breach of capacity if they fail to invest the capacity level that we are contractually holding them to.

Ms Martel: Are the termination options the same as in the original agreement with an arbitrator?

Ms Corke: To some extent, although we have tried to really clarify those and make sure that there is actually a shorter, sharper process in some cases. So we've tried to be much clearer about those termination options. They haven't quite settled yet.

What we're really pleased about in this is that we've managed to have these negotiations without ever discussing any sacrifice to quality. As you know, in a sort of heavy-cost situation, quality is often a variable; for us it isn't and for Teranet it wasn't either. So we have in fact completed these negotiations without any sacrifice to quality. At no time did Teranet ask nor did we contemplate dropping quality standards to achieve cost-cutting. In fact, we've made some concrete efforts to implement a continuous quality improvement project alongside the other exercises that we're doing.

I don't know if you're interested now, but there were a lot of other items on the table in the negotiations. I have a two-point summary. I could just let you know what the other items were, or not.

Ms Martel: I have some other questions.

Ms Corke: OK, I'll hold on that.

Ms Martel: At the top, you said about 88% in communities over 5,000. That's automation and registration?

Mr Roote: It would be automation and availability for electronic registration. It would be automated, converted and ready for electronic registration.

Ms Martel: Will there still be annual benchmarks as well, since the deal, as you perceive it, will go to 2007? The current agreement had benchmarks which Teranet was not meeting.

Ms Corke: No, they won't have benchmarks in the same way. What we have is what we call an implementation rollout schedule that is also matched to an electronic registration rollout schedule. That rollout schedule has targets by geographic location. It's those targets that we will be monitoring explicitly as we go along in a quarter-by-quarter way. So it doesn't have number of PINs, which I think was the benchmark before. It has more outcome: percentage completion; what's been the capacity that you've put in; what is the number of PINs; if there are complexity issues, what is the PIN mix relative to what we thought it was; what percentage completion have you done by office relative to what you said you would do in the implementation rollout schedule, which will be part of the contract. So we can hold them to that stuff.

Ms Martel: Just so I'm clear, the rollout schedule per se does not have a calendar target?

Ms Corke: Yes, it does. Absolutely. It rolls out by year. You know where you're supposed to be on all of the offices by month and by year. Of course, it's quite precise for the first little while. As you get further out, it's much less precise, but nevertheless, it has you finishing specifically in the third or fourth quarter, 2007, at \$215 million or below. So there are targets there.

Ms Martel: Just so I'm clear, I think under the current agreement, if Teranet didn't make one of its annual benchmarks, that was actually a cause for termination.

Ms Corke: Yes.

Ms Martel: Is that the same for this?

Ms Corke: No, it's not the same here. What we're doing here instead of that—first of all, there are so many unforeseen factors that what we've done instead is institute a very detailed monitoring activity. We've accepted the fact that when they've gone over their time and cost in the past, it's been because of factors not necessarily within their control. So what we've said is most important to us is to finish on time and on cost target. But what we've also said is that to terminate the licence, to terminate the entire business for implementation activities, is not actually in the interests of either the company or ourselves, since they do other things for us as well. What would be better in fact would be to manage those costs and timelines properly so that we can make adjustments and choices.

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They also do many other things for us. They do electronic service delivery, as well as converting—they convert the data but they do electronic service delivery for us, and the idea is that they will be doing that in the vast majority of offices. They also operate the Polaris system for us. So to terminate their licence for implementation issues which may be outside of their control does not seem to be in our interest. However, there is termination if they wilfully fail to perform and if they fail to put in the capacity that we require of them. Those are termination events of the whole deal.

Ms Martel: You mentioned caps both on timeline and costs. Are you going to have any items outside the cap? Part of the problem with the deal with Andersen was that there are items outside the cap which allow for other funding sources. Can you tell us that the cap will be a cap?

Ms Corke: It's a cap on the implementation and automation project. It's not a cap on the system operation costs or system development or on those kinds of things. These are things which serve more than just our implementation and automation project; these are things which serve electronic service delivery and the building of other value-added products. So I'm not quite sure if—

Ms Martel: I apologize. I thought you said we need a cap on costs and a cap on timelines—

Ms Corke: Yes, absolutely.

Ms Martel: If I didn't hear that correctly, my apologies. So I'm curious about what a cap on costs means.

Ms Corke: OK, I'll have one more go at it and then I'll ask Dave to give some details. The project we've been talking about here at committee has been the implementation project, which is the automation and conversion project. There are other things which Teranet does for us. So we've been talking about that project. Maybe I can turn it over to David.

Mr Roote: The cap related to time and cost is to ensure that we do not exceed those. If we find—and this

is what Sue mentioned—along the way that the costs are becoming larger than we had anticipated, it becomes decision-point time, where we would then go back to the decision-makers in government and say, "The project is taking a path that was unanticipated. We need to propose some options and seek some decisions as to what course of action the government wishes to follow: to carry on or to bring the project to a conclusion earlier than we're suggesting at this point," but we would need to get some decisions made from government.

You were mentioning, Ms Martel, some items outside the cap, using the Andersen contract as a comparator. Could you give me an idea of what items that might include?

Ms Martel: The Andersen contract has a \$180-million cap. Outside of that are some technology costs, software costs. If the project goes over, depending on the party responsible, there can be extra billing under that as well. So the \$180 million is not a fixed government cost for this project. What I'm trying to get at is, is this the same? When you tell us there's going to be a cap, does that mean there's going to be a cap on the overall cost of this project?

Ms Lang: Perhaps I could attempt to clarify. I think what we're trying to distinguish here, Ms Martel, is the fact that there is a project, the conversion and automation, which is taking the old records and trying to automate them. Then there is the management of the system which has been put in place and continues to grow and develop. The costs that Sue has been alluding to are the costs of that conversion exercise, which is different from the requirement to continue to manage and develop the system and keep it operating. So that's the distinction I think we're making in terms of the caps. The caps that we're referring to are the caps on the implementation. There are definitely caps on that.

When it comes to operating the system and continuing to do system development, we will probably continue to be in discussion and dialogue about whether there are increased costs associated with those, depending on the advent of technology and the change in the way in which we provide service in the long term. Is that helpful?

Ms Martel: Yes, I think that answers my—

Ms Lang: If I could just clarify one thing as well, I think I heard you allude earlier to the fact that Teranet had not met its annual benchmarks.

Ms Martel: For 2002.

Ms Lang: That's not accurate, actually. Teranet has always met its benchmarks. Where we were running into difficulty is that we were coming close to a point where they potentially would not be meeting their benchmarks, which caused us to engage in the exercise we've been involved in for the last several months. I just wanted that on the record, that they have in fact always met their benchmarks.

Ms Martel: Your most recent letter to us said the corporation would not in all likelihood meet its annual benchmark, and I think Standard and Poor's had given some information as well that they wouldn't meet the 2002.

Ms Lang: Right, but to date they have always met the benchmarks. So there hasn't been a history of them not meeting the benchmarks.

The Chair: That's 20 minutes. We'll go to the other caucus now and come back.

Mr Joseph Spina (Brampton Centre): Thank you, Deputy and staff, for coming. I know this has been a long and arduous road that you've been travelling. I have a couple of questions; one perhaps is just a clarification from you, Sue. When you indicated that the incremental cost of the automation conversion, specifically \$250 million, and the total, with depreciation and interest, would come to \$680 million, I thought I heard you say that this would be borne by Teranet. Is that correct? Or what portion of that is government taxpayer dollars?

Ms Corke: It's a Teranet-incurred cost, but the business model, of course, has a large number of pieces to it, which we'd like to share with you. So it is a Teranet cost; it's not a direct government outlay. The business model is funded through equity that the government put in at the beginning and it's funded through the transfer of revenues. It's \$215 million, not \$250 million—I hope I didn't mislead you—and that's important to me.

Mr Spina: We have a hissing heating radiator here so it's a little tough to hear today. I'd appreciate it if you could speak a little louder.

In the Provincial Auditor's report of November of last year—and we're pleased that Mr Peters and his staff have joined us today—he had made some observations regarding the cost of the project and observations on the Polaris project, and I know there were some ongoing meetings. Perhaps either you or the Provincial Auditor might give us an update on where that stands now in terms of your communications with Mr Peters's office.

Ms Lang: I'd actually be quite happy to provide some comments and perhaps Mr Peters will as well, and Dave can perhaps give you some detail. My understanding is that we've had continued dialogue and discussion with Mr Peters and his office. For the most part I think we have resolved the outstanding questions and concerns and provided the necessary information and material that had been requested during the course of the summer. I think we've been able to satisfy most of the concerns, if not all of the concerns, that have been shared with us during the course of the discussions over the last several months.

The Chair: Mr Peters, do you choose to comment?

Mr Erik Peters: Yes. We have received the information, but I must admit that it has been an arduous process. One of the concerns that arose in the previous meetings was the continued argument that the information was proprietary to Teranet, and I think this week we finally removed pretty well all these cobwebs off the table. So it has taken that time.

I would like it on the record that we have in the meantime obtained a legal opinion and I would like to bring that out. We have taken a look at the confidentiality clauses that are in the agreement. In the exclusions from confidentiality is any information that is disclosed pursuant to a court order or other legal compulsion or as

required by law. Our right of access is established under the Audit Act and therefore it's under law. I am happy to note that as of now the restrictions have been removed.

The Chair: You mean we should have had this meeting three months ago.

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Mr Spina: That's OK. I guess the reality is, as we've said, that this has been an extremely complex process on the part of the ministry. In fairness, I think Mr Peters was just trying to do his job, as were these people. Now we're happily at a stage where they've been able to be on the same plane, I guess, for lack of a better way to describe it, and we want to ensure that the Provincial Auditor's office is comfortable with what is going on and, as the process moves forward, that they continue to be satisfied that it's being done in a proper, diligent manner. I think the ministry is striving very much to achieve that level of service and information flow.

One of the elements that was challenged, I guess, that could impact on this process—now we'll have to start shouting even with a PA system. With recent events, particularly back in September, there's some concern about the potential for disasters, contingency planning for disasters. Does the ministry, does Teranet have some contingency plans? If so, have they been included in some of these incremental costs or is that something we may be looking at down the road?

Ms Lang: Sue is probably the best person, because I think we have a good answer on that one as well.

Ms Corke: That was definitely a concern of all of us in the early year. We spent a lot of time during the negotiations working on disaster recovery planning, contingency planning, and Teranet had good disaster recovery plans and we did too but they weren't integrated. The delivery is integrated, the land registration offices, and Teranet needs to be in the same place if anything bad happens. So we have in fact put together a really good integrated disaster recovery plan, we've had it vetted by a third party, it is up to commercial best-practice standards and components of it have been tested, so we're feeling as if we have a complete grip on the disaster recovery planning. It will be included in the contracts.

Mr Spina: Thank you. That was the other part of the question: if it was included as of those amounts.

Ms Corke: Yes. And we're satisfied that it's workable. We've done some testing.

Mr Maves: I'm trying to remember previous discussions. First of all, you had mentioned in your remarks that a third party due diligence had been completed. Whom was that by and when was that completed?

Ms Corke: On the cost of implementation automation? National Bank Financial. It was just completed about two weeks ago.

Mr Maves: What were their conclusions?

Ms Corke: Their conclusions were that the forecasting methodology was sound, that in fact there was full alignment between the implementation rollout sched-

ule and the revenue generation schedule, that the math was good and that it had been done properly.

Mr Maves: You also said that you have better knowledge now of the assumptions that went into the pricing and the timing of the project. You said you were much more aware of those assumptions and which ones were the riskier assumptions or the assumptions that are hardest to maintain. Can you talk about some of those assumptions, the ones that are the most difficult to control for?

Ms Corke: I can't talk in any detail about them. I can tell you generally and perhaps Dave can supplement what I'm saying. I myself haven't worked on implementation. I've been the lead negotiator, but we have a team that does that. The main issues are in offices where Teranet hasn't done any work yet. The main issues are around whether or not the types of properties and the types of PINs are exactly as people think they are. So are they like that or are they something different? There are something like 20 different classes of PIN type.

Mr Maves: What's PIN?

Mr Roote: Property identification number; individual units of property owned by people.

Ms Corke: The assumptions anticipate what the mix of property type is going to be because there are different amounts of capacity. A different amount of work is needed to do each of these things. So PIN mix is one of the variables that people have made their best estimate about. But that has been something in the past that isn't always borne out, so we have to keep a really close eye on that.

Another issue is the complexity of the records. Some of these records are very, very old and they don't turn over that often. There's some very arcane—those of you who are in the business will know—ways of dealing with the state of the records, let's put it that way.

The other thing is simply volume. Volume is something you attribute to a healthy marketplace, but you can't always anticipate exactly how properties are going to come on to the market.

Those are the kinds of things that we've been talking about managing and not being able to always get a full fix on in some of the smaller communities. Maybe Dave could augment that.

Mr Roote: I guess to go to the origin of this, many, many years ago there were 65 land registry offices in Ontario and they were run by the municipalities; they weren't run by the province. Municipalities kept the records in some consistent ways in some areas, but some of the municipalities had records that were maintained quite differently. So when the company goes in to look at a particular jurisdiction, it has to do a records review to see whether the methodology they're using in the previous jurisdictions can be applied completely in the one they're going into. Those records do vary in parts of the province, like the eastern parts of the province which are largely still in the registry system and the northern parts which are in land titles. The records have been kept because in some cases those records go back much

farther in older parts of the province than they do in the newer parts of the province.

So what the company has faced is that during the course of the implementation, they've discovered property types, property mixes, property descriptions which are quite different and so it's very difficult to be absolutely precise until you get into a jurisdiction as to how much effort it is going to take to do the conversion process there.

Mr Maves: Are there 65 jurisdictions that they have—

Mr Roote: There are 55 now.

Mr Maves: They've done 10?

Mr Roote: No, I think we're fully automated in 26 jurisdictions.

The Chair: Did you say fully automated in 26?

Mr Roote: Twenty-six, except if there are difficult parcels in registry which may not have been automated yet. There are, in some cases. In your jurisdiction, Mr Gerretson, there are still some that are not fully automated.

The Chair: Right. I'm sorry, Mr Maves.

Mr Maves: Yes, you'll give me back that time, won't you, Chair?

So you've got 29 remaining jurisdictions to do work in, and I would assume over the life of this project, because the PIN mix is a variable which can cause problems, that they've gone in and had a cursory look at those 29 jurisdictions, and their assumptions are based on a cursory glance at those 29 jurisdictions in their PIN mix and so on?

Mr Roote: That's correct. When we start we have an assumption about what we're going to experience there, but there's also a site preparation process where they actually go in and do a more detailed review of the records. It's really when you get into the records where you see whether your starting assumptions are borne out by the actual experience. That's where some of the variation has taken place.

Mr Maves: OK. I think another point of discussion that we had before, if I remember correctly, is that the easier-to-automate jurisdictions have been completed first. Are we moving into the more difficult ones?

Mr Roote: That's generally true. In the early days of the project, in order to provide an accelerated cash flow to the company to fund the implementation, they went into areas where the property mix is property types and the ease of automation and conversion was faster. We're now moving into some of the grittier areas of the province where the records are more difficult, and the company has advised us that the complexity issue has become more difficult for them.

Ms Corke: Having said that, although we expect them to be more difficult, there's a lot less of them because 70% has been done. So the volume is lower in a sense, but the difficulty may be an issue.

Mr Maves: OK. In your letter of October 25, 2001, to Mr Cleary, one of the delays that you talked about—in 1998 the ministry granted approval to extend the

completion date to March 31, 2004, and the next sentence says, "This extension was based on a number of factors including the economic downturn of the mid-nineties." Why would that cause a delay in the project?

Mr Roote: In the early days, in the mid-1990s, as you know, we had a fairly significant recessionary period. The company's funding was based on their ability to acquire the revenues from the registrations against the properties. Because of the economic downturn in the early 1990s, the number of registrations against the properties fell quite precipitously, the market declined quite rapidly and it reached a much lower level of registration activity than was originally anticipated. As a result, there were some early start-up issues with the company then with regard to acquiring a new private-sector partner and, as a result of that and the additional complexity that they discovered during the latter part of the 1990s, the time frame was extended. They didn't have the funding. They ended up acquiring debt financing in order to continue to provide the working capital to continue the project.

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Mr Maves: OK. In the same letter in the next paragraph, you talked about September 1999, when Teranet terminated the contract with EDS Systemhouse, and "Teranet reflected this loss of automation resources and indicated that the completion of automation could potentially extend to March 2011." Wouldn't that have affected the contractual agreement that they had with the government and therefore wouldn't they have automatically had to replace EDS?

Mr Roote: We certainly advised them at the time that that became a decision of the company to terminate that agreement. The issue they were having with their contractor was that with the additional cost, even the contractor was having challenges producing the number of units at the contracted price. The company then was also paying more, there were quality issues with the work being done and the company felt that in order to reduce its expenditures it needed to terminate that contract.

But you're right in the sense that it did not absolve them of the responsibility for the production that was coming from the company.

Mr Maves: Right.

Mr Roote: However, even if it has retained them, I think with the overall changes in the complexity of the project they would not have been able to maintain the output required to meet their benchmarks into the future, whether they had retained their private-sector supplier or not.

Mr Maves: Who did they eventually replace EDS with?

Mr Roote: They did not. They were doing roughly half of the production work themselves and they've continued to do the production work strictly through the company, through Teranet.

Mr Maves: OK. At the top of page 3 of the letter, it talks about, and you mentioned it in your remarks, termination of the contract. It says on the bottom of

page 2, "While the magnitude of the compensation which could be potentially payable to Teranet upon termination has not been quantified, it could represent a significant cost to government." You go on to say, the government could "stand to lose bonds in the event of the termination" and that termination "would also gravely impair the province's ownership interest in Teranet." But it seems that in the contractual arrangements with Teranet there's a very high price to pay if they, in your own words, wilfully fail to comply. I'm curious about why we would have ever, back in 1990 or 1991, whenever it was originally done, come up with a contractual arrangement that was so onerous upon us to extract ourselves from the relationship even if the other party was wilfully failing to comply.

Mr Roote: There are two different issues here. One is, on a going-forward basis, a wilful failure to comply or to provide the resources to do the project would be a material breach of the future agreement that we're negotiating.

In the original agreement in 1991, it was intended that the parties would go through an arbitration process if there were a terminating event, which is the wording in the current agreement. That terminating event, going through arbitration, would require both parties to make a submission to an arbitrator, and it could be determined through an arbitrator that either the government or Teranet may have to compensate the other party. What we wanted to avoid was being in a situation where a decision could be made that we would have to provide compensation in the event of a termination. There are a whole series of clauses in there and arrangements that we would have to go through before a termination could be determined by an arbitrator as being solely or partially the responsibility of one party versus the other.

As Sue had mentioned earlier, because they are our supplier—Teranet's the supplier; they run our system for us—wanting to avoid the prospect of an arbitration decision which may require us to compensate the company, and on recognizing the fact that they do run our system and we want to complete this project, even if we were to terminate the company under whatever provisions are available, we'd have to replace them. Replacing them would cost us a significant amount of additional money to get someone who's experienced enough to be able to carry the project on. That's something that we certainly don't want to anticipate: incurring costs for that.

Mr Maves: Similarly, I note we have 40% of the shares?

Mr Roote: We have 40% of the voting shares; we have 50% economic interest in the company.

Mr Maves: So we have 50% of any dividends or other distributions paid out by the company?

Mr Roote: That's right.

Mr Maves: Obviously, then, that will include any work using their expertise gleaned from working in Ontario. Any work that Teranet gets in other jurisdictions, any profits made therein, 50% of the dividends and

distributions from that work would come to Ontario taxpayers?

Mr Roote: That's correct.

Mr Maves: And is Teranet currently working in any other jurisdictions?

Mr Roote: Yes, they have worked both domestically and internationally. They have a contract in Europe. There are other contracts. We get a number of people coming from across the world to see us who marvel at the work that's happening in Ontario. They have contracts in Canada, they have contracts with municipalities in Ontario, they have work that they're doing through the bar association here in Ontario, the Canadian bar—the Ontario chapter—and they're looking for work in other jurisdictions as well. So they have an international component of the company that does work outside of Canada, as well as domestically.

Mr Maves: Are there any other jurisdictions that are ahead of us in the type of system they utilize for land registration?

Mr Roote: No. We're the first one in the world that did an electronic land registration. Other jurisdictions are moving in that direction. Other jurisdictions have automated their records in Canada—BC in particular, and New Brunswick and Nova Scotia are moving in that direction—but we're the first to have an electronic registration for filing purposes. The company has been recognized on more than one occasion with some pretty prestigious awards, in concert with the ministry, for the innovative work it's done in that area.

The Chair: OK, we'll have to leave it at that.

Mr Richard Patten (Ottawa Centre): I'll go first. I own a property—I don't really own it, because I haven't paid anything off on it—in Quebec. Quebec has a complete mapping of the total province of all properties, and those are available, because my notary was able to retrieve that in terms of my lot. Bingo. So I would like to ask the researcher if you could see what—I don't think it's as sophisticated, perhaps, or as detailed in its filing of data, but certainly the title, deeds and mapping of all properties in the total province is complete.

I'd like to ask our researcher if you could get some kind of a quick response to the committee on that, because that's my understanding; like that. I understand that's the first—well, it shouldn't be the first because I think perhaps PEI would have an advantage in being able to map its properties. That's my first comment.

Do you have any comment on your knowledge of the Quebec system?

Mr Roote: I don't, but I can tell you with regard to mapping, part of the project for implementation is to create property maps. As we do the automation and conversion, those maps are created for the province. That's part of the process, that property maps are created electronically.

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Mr Patten: I'm not a lawyer; I'm happy about that. We have a few here. But in looking at the nature of the relationship with Teranet, it sounds fairly incestuous in

the sense that: is it the ministry or the government that owns a good chunk of the company in terms of investment and voting shares etc? Here you're negotiating with part of—it sounds like a conflict of interest, frankly: negotiating with a company of which we own 50%. Then we have termination agreements.

Mr Maves, I thought, made an interesting point, and I'd like to pursue that a little bit. If they do not comply and for some reason we decide that we've had it with this company, we have to pay them off in terms of their investment. According to the auditor's report, it's something in the neighbourhood—at least a year ago—of \$300 million, but we as a government would get back probably \$150 million of that because we own 50% of the company. Is this a weird line of questioning, or can you help me appreciate the nature of the relationship? There's a company buying our service, and we can negotiate with them and we negotiate the search and that's the end of it. It seems we're negotiating with ourselves somewhat, so it sounds to me like there's a conflict of interest.

Ms Corke: May I have a go at that? OK. My marching orders for doing these negotiations were to make sure that the ministry had its client hat on when we were doing the negotiations. What we were doing with Teranet over the summer was explicitly looking to make sure that our client interests were taken care of. That was in the area of making sure that timelines and costs were low, that we had quality of product, that we had secured our access to the system, and all of those kinds of things, disaster recovery. So we were very much focused in the area of making sure that service delivery was going to be possible and that our client interests were protected. We have actually a partnership with SuperBuild, and SuperBuild had advised us that looking at it from a client perspective was exactly what we were required to do and to tighten up the client-supplier contracts. That was honestly the focus. I haven't been given any marching orders with regard to our shareholding interests.

Mr Patten: I don't know if I can ask the auditor a question in this regard.

The Chair: Sure.

Mr Patten: So, Auditor, you'd have to separate the investment and the role of the government in its investment, and its role in governing this particular company from its service to the government, and whether those things are cost-effective, and assume that it's an independent company. How would you approach that? You didn't really comment on that in your report.

Mr Peters: We didn't specifically deal with the issue, but we have always taken the approach to this project that the ministry, under the various legislation, is charged with the responsibility of maintaining a land registry system in the province.

Mr Patten: Yes.

Mr Peters: Therefore, the overarching responsibility and accountability is by the ministry to the Legislature and to taxpayers, how it performs that particular function. That has been the overarching approach.

If, as in this particular case, they made an arrangement with another company in which they also took as part of

their compensation in turn, if you will, an equity interest—and, as well, as you know, the ministry charges royalties; Teranet pays royalties back for the use of the data—the questioning that Mr Maves and you were pursuing was really the ultimate question that we have been asking continually: who owns the system? It has to be abundantly clear that, ultimately, it is the province's responsibility to own that system and ultimately even to operate that system. As you know, under the arrangement that was made, the method of payment that was agreed upon was that Teranet would be paid the registration fees or any fees earned, theoretically, by the consolidated revenue fund that were now given to Teranet because the properties involved were the ones they had transferred to the system and had provided the information technology for. So overall I agree with the minister's answer that they have to deal with it really as a client, Teranet as a service provider, even though the government has an interest in it, because it has the overarching responsibility for that.

Mr Patten: I understand that. That makes sense to me. Anyway, it sounds a little weird.

In your letter to Mr Cleary—was it from the deputy? Yes. In the middle of page 4 you talk about some savings to the ministry, and the current budget program—you refer to the reduction of costs in 1991 to \$23 million in the area of the land registry services. Bringing that forward, presumably part of this whole exercise is that this will cut some of the costs to the ministry, plus, when everything is up and running you would receive royalties etc, let alone the investment you had in the company itself etc.

At the bottom of that page, you then move to fiscal year 2002 and you talk about revenues that are transferred to Teranet and what the province has received. I'm just trying to get the accounting down. Can you therefore tell us, in the year 2001, what the savings were, going back? That's almost 10 years from the 1991 example. What's the situation as of now, even though the job is not complete? Presumably, there would be greater savings, would there not?

Ms Lang: I think the answer is yes. The intent would be, over the course of the project and the implementation, that we will garner greater savings. We, as you know, now operate the 55 land registry offices in the province, so we incur an expenditure to provide for those offices and the staff who are associated with them.

It is our expectation in the long term, once the implementation is completed and the records are automated and we're able to do the bulk of the work in an automated way through electronic registration, that we probably will not require 55 different organized bodies out there to provide the service, because the public will be accessing the service through technology, through computers, and the back end processing of the land registration function can in fact be consolidated somewhere. So I see in the long term that there are further savings to the government as a result of the movement toward the automation of land registration.

In the longer term, in addition to the money that has been saved as a result of our ability to reduce our staff with the advent of Teranet taking on more and more of the responsibility and of the service delivery, over time we will see further reductions, absolutely.

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Mr Bruce Crozier (Essex): Good morning. I want to refer directly to section 3.03 on page 69 of the 2000 special report, under "Overall Review Conclusions." I want to quote in part from that:

"In 1991, the Polaris project had an original cost estimate of \$275 million and an anticipated 1999 completion date. Then, in April 1999, Teranet provided the ministry with an estimate of over \$700 million to complete the project and a project completion date of 2010. Then, according to a consultant hired by the ministry, due to significant uncertainties in the assumptions used by Teranet, the project could cost over \$1 billion. Consequently, the ministry's risk, costs and benefits with respect to the project have changed considerably."

Ms Corke, you said earlier that you want to manage the timelines and have a firm, strong management process. In view of what I quoted and in view of what you said this morning, how can you be sure and how can you assure this committee that in fact from this point on you can manage the timelines and have a firm, strong management process, when it would appear in the past that that may not have been the case?

Ms Corke: There are a couple of ways, I hope, that we can do this. First of all, we now understand much more about where the uncertainties are and where the aspects are that can be controlled. So, with a quarterly review process and with a full disclosure on any kinds of variances, it'll be possible—this is how, usually, complex projects are managed, I think—to understand the cause of any variance as it's unfolding, and if it's done on a quarter-by-quarter basis, it's quite possible to realize what kinds of choices you have to make. So if you're looking at variances that are within the company's control for some reason or other, then it's possible to do something about that. If the variances are not within the company's control, it's possible to start to imagine the kinds of choices you have to make if the project is starting to get more expensive than you hoped it was going to be.

The kinds of choices are—supposing you're at 2006, for instance, and you're at 84% completion and it looks as if that last little bit is going to take you over the timeline of 2007 or possibly over the \$215 million, you have a clear-cut choice to make. If it's not within the company's control, if it's issues around complexity and volume, you have a clear-cut choice to make, that cabinet could make, about the extent to which you want to incur additional cost and go the full way or the extent to which it's OK to complete substantially at 84%, for instance. You would have to know the detail of that: where is it that we're not going to complete? Are these communities in which there is very low turnover in transactions? What are the downsides of doing that? But it gives you the full

quarter-by-quarter management information that you need, plus you have the termination capability if the company is wilfully failing to perform or if it hasn't put in agreed-upon capacity. The idea would be that you have those tools, that you are never in a situation where a management decision is not possible to make, because you have the full disclosure and you know why and what exactly is going on.

Mr Crozier: Do I take it from that, then, that I can conclude that we've learned from the past and we're going to use that knowledge in the future?

Ms Corke: I think we've all learned from 10 years' worth of activity. We've learned lots of different things. We have learned about how difficult it is to predict some things. But when things are difficult to predict, you put a case around them and you make them manageable and you make sure you have the information to make the right decisions, and not be put in any kind of situation where you have to proceed with something because you haven't been open to any other options. I think we've all learned. I myself have learned an enormous amount this summer, not only about implementation but also about how to manage complex relationships, how to keep yourself in a client perspective when there are other interesting overlays to this project. The other thing we've learned about, I think—we won two very significant awards together with Teranet during this exercise. While we were having some very difficult negotiations, there was a moment of real optimism that we were in fact doing something together that was quite brilliant. So we've learned an awful lot this summer and over the last 10 years.

Mr Crozier: Was it Henry Ford who said, "If we haven't learned from the past, we're bound to repeat it," or something like that? I'm glad to hear you say that.

How difficult is it, then, from what we've learned, to predict or to have a firm idea of where we go from here on these—fewer that we have to do, the 20-some-odd, but the volume is lower? Do you feel we have a good handle on what it's going to take to complete that?

Ms Corke: Maybe I could have a go at that and then Dave, from a pure operations point of view. I have looked at the work that everybody did this summer. I've looked at the amount of effort that went into it, the mutuality of understanding, the detail and the way in which past experiences have been taken into account. I'm satisfied that the process that was undergone was extremely detailed. We haggled over everything. Nothing was taken for granted. I believe that we have in place the kinds of projections that are fairly reasonable. Teranet thinks they're still conservative, they're worried, but that's because they have risk associated with it. They will always be anxious until they get in there and see those records and see who did what to whom. But I believe, and I believe my team thinks, that we have a pretty firm grip. But I'm much more comforted by the fact that we have a strong governance process in place and that we will be devoting the resources we need to in the government to managing that governance process and that we will never not know what's about to unfold.

Mr Roote: I think it's fair to say that because we have done 70% of the province thus far, and respecting what I said earlier about the variability and the records from one part of the province to the other, it's a reduced percentage of likelihood that we'll uncover something very different than what we've experienced to date. I think that we've made appropriate allowances in our projections forward to be able to accommodate those within the ceilings we've set. So I think the lessons have been learned and that the going forward is a very strong one. I am very comfortable that we can manage within the projections we've made.

Mr Crozier: Are the remaining parts to be done spread around the province?

Mr Roote: Yes, they are, principally in the east and north. We've got Toronto surrounded, in a sense. The GTA—

Interjection: So have we.

Mr Roote: As a project, Toronto will come on stream toward the end of next year. The areas that are remaining to be done are principally in the eastern part of the province and in the north.

Mr Crozier: Just one more quick one, if I have time, and that is with regard to early conclusion. I would assume that hopefully we're not seriously looking at an early conclusion, because I think everybody wants to complete the whole project. How does that process work? Would you lay out the options, where you're at? And then it goes to cabinet, I assume. Is that correct?

Mr Roote: Yes.

Ms Corke: We have, actually, over the summer looked at eight different models. Our goal was to get electronic registration capability in communities over 5,000 as a baseline. We looked at a lot of different models. We've chosen the one that we think has the best cost-benefit approach, and that will, of course, go in a package for formal approval.

The Chair: Mr Peters, do you have any comments or questions before we go around again?

Mr Peters: I have a little bit with the context of some of the questions you were asking. In our report we had mentioned the estimate that the project would be extended to 2010, and I was wondering if you might want to provide the committee with a new time frame or, if you can, what you're currently envisaging as the time frame, when it is completed. I'm referring to the letter on page 5. You say, "Based on the provisions in the licensing agreements, the terms of exclusive licence remain in place until the shareholders receive a certain rate of return on their initial investment." I believe that part of your current negotiation also includes how long the exclusive licence will be granted to Teranet, and I'm wondering if you would comment overall on that and, for example, the impact on the number that Ms Martel asked for. She asked for the fee revenue that Teranet would earn up to 2010. Is that number different in the current terms of negotiation or is it projected to be different? I'm just wondering.

The last question I have is, coming back to that ownership question, at the end of this, does ownership of the

system revert to the government or does it stay with Teranet? Also, what are the safeguards if there should be a default on the bonds? I understand that the system has been given as collateral to the bondholders—what the safeguards are for the taxpayers in the event that Teranet should default on its bonds. So these are some questions I thought I'd give you a chance to put on the table and give some answers.

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Ms Lang: Perhaps what we could do is deal with the last question first, if that's acceptable. We also have brought some material that I think will help deal with the first questions last, if that's understandable. I'm going to ask Sue to—

The Chair: Are you going to file that with the committee?

Ms Lang: Yes.

I'm going to ask Sue to deal with the question you asked last about the bonds, and then we'll go into the numbers that are associated with the negotiation that we've almost completed.

Ms Corke: I'd actually like to ask Dave.

Ms Lang: Sorry. OK, that's fine.

Mr Roote: With regard to the bonds, just to clarify, the ownership of the system is not with the province; it's with the company. The province owns the data in the system. The negotiations that we're engaged in now do not contemplate the government's taking the ownership of the system back.

The Chair: At any time?

Mr Roote: No. What we're looking at is to ensure that the government has rights of access during the exclusive licence period and thereafter. So Mr Peters is right that as part of the bond covenant the ownership of the system is pledged as security against the bonds. But what we've been negotiating is not the ownership of the system; it's the rights to use the system in order to fulfill our statutory obligations. That will remain absolutely solid for the province to be able to maintain its access rights to the system perpetually in order to run the business of land registration in Ontario. But requiring the system at a point in time is not part of the current negotiation position for the government.

The Chair: Any other questions? Does anybody want to respond to any other comments that he made?

Ms Lang: I think we want to now refer to the material that the clerk is distributing on our behalf to answer the first questions that Mr Peters asked.

The Chair: Mr Spina?

Mr Spina: I think Mr Hastings had a question on the same issue, on the bonding.

The Chair: Sure, go ahead.

Mr John Hastings (Etobicoke North): Mr Roote, looking through the material that Teranet has provided and what you have provided to us, I see that they have this debt overhang of the bonds, \$280 million. They lost \$44 million in the past operational year. They've never paid a dividend. Could you provide this committee with what their operating losses were for the prior years? We

might as well go right back to 1991 when the first contract was negotiated. My point is, I would like to see the material. I don't want to make an inconclusive situation. To what extent are you comfortable with this company's debt overhang, including the \$280 million in bonds and its debt-to-equity ratio? Will it be able to perform as you are telling us and expecting that it will over the next number of years?

Mr Roote: If I might, not to try and be unresponsive, Mr Hastings, but getting into the company's financial position—it's a private company. I'm really not at liberty to disclose its financials. However, I can tell you with regard to the government's involvement or lack thereof with the bond issue, the bonds are issued by the company. The government's exposure there is twofold. One is, it holds \$30 million worth of bonds as part of that debt issue. Secondly, if the company were to have a poor performance or have financial troubles, the government also has a 50% economic interest in the ownership of the company. So the value of the company would be affected, as would the government's share of that value.

However, in the arrangements we've looked at with regard to the cost of the project, the interest on the bond is capitalized as part of the implementation costs. So we are comfortable that the company's ability to sustain its responsibilities to the province can be delivered. We're not concerned that the company is not going to be able to perform or deliver its obligations to us for the period remaining in the project.

The Chair: We can get back to that in the next rotation to you. There were some issues that Mr Peters raised. Do you want to respond to those before I go back to Ms Martel for a new round?

Ms Corke: We've handed out two pieces of paper. One is on key timelines and one is to try to give an understanding of the estimated long-term costs and benefits of our relationship with this company over a 26-year period.

You had asked when completion would be, and we had said 2007. Something like that is what it looks like at the moment. And you had asked about the rate of return at the end of the exclusive licence period, which would be around 2017 on the current numbers.

What we've tried to do in the long piece of paper, if I could take you through the long sheet of paper first, is to give you some sense of how the overall relationship works, because it isn't just about automation and conversion. If this is helpful, what I'd like to try to show you is what our ministry has put into this exercise over the last years and what's projected out to 2017. I must just say that it is in fact an estimate. It's meant to illustrate how the relationship works.

In 1991, equity was approved from the government into the company of \$29 million to \$30 million. Over the 26 years, we anticipate that \$2 billion worth of revenue would have been transferred. That's not net; that's gross. We can see the net in a minute. And there is a bond holding that we have now of \$30 million. So the total government investment, if you like, counting equity and

the bond and the revenue transference, is about \$2 billion over a 26-year period on this estimation.

The second column underneath that shows the benefits and savings to government. The reason for showing you this is to let you know the logic associated with doing business this way, back in 1988 or 1989, whenever we did the due diligence on the models.

The benefits and savings to government are several. First of all, there's the obvious savings from not doing automation and implementation. We were going to do it ourselves. The savings from not doing that are \$750 million in present-day value. I think we had said \$620 million back then, so \$750 million in present-day value. There will be, we hope, we expect, a dividend associated with our relationship with this company. I haven't quantified that dividend. The better we do, the more it becomes, so we haven't quantified that for the purposes of this discussion. We also get a return on our bond. There are staff savings associated with running the land registry offices, which Deputy Lang has alluded to, over the next few years. Some of those savings are already realized around counter service and that kind of thing, of \$200 million. Our royalties over a 26-year period will have been \$460 million. And there's the fact that we're not operating the Polaris system ourselves any more. Teranet is doing that on our behalf, and the cost of that is \$320 million. So the total benefits and savings to government, exclusive of our dividend—our dividend is basically associated with the evaluation of the company—is \$1.7 billion.

The reason for setting these two columns together is so that you can see the logic associated with the model: the total \$2 billion input, if you like, over 26 years, and the benefits and savings of \$1.7 billion without the dividend. So if you could imagine that the dividend could be anywhere from \$200 million or more, in actual fact you can see a break-even situation, if not a positive benefit.

Revenues and investment from other places that have been generated from our involvement in this company—and the logic also was to lever the private sector somewhat and also to get revenues associated with value-added products coming in and not just with the core business—those revenues and investments elsewhere are from \$30 million from the shareholder at the very beginning that matched our equity involvement and a projection of \$900 million in revenues from other products and services.

The Chair: What would they be?

Ms Corke: What would other products and services be? Well, they are doing work on writs, for instance. They have a BAR-eX product that they deliver.

Mr Roote: They have several products. They are in a venture as well with the Canadian Bar Association here in Ontario for title insurance and for—I forget the other one now, but they have a number of products. They do mapping services for municipalities. They are out in other jurisdictions acquiring revenues from other sources as well.

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Ms Martel: Just on that point, the \$900 million is a reflection after 2017?

Ms Corke: No, it's a projection of revenues from other sources besides LAN registration, from the beginning to 2017.

The Chair: It's the total for all the years.

Ms Martel: But what would be the number for this year? Because I'm assuming your \$900 million is as of 2017.

Ms Corke: No, no, it's not; it's 1991 to 2017. We know that it's a much smaller proportion of Teranet's business at the moment, because we know that Teranet's core business is the work they do for us. But it is expected, it was always expected, to grow. I don't know what it was this year.

Mr Patten: Do you have a marketing background?

Ms Corke: Do I? No. I'm a good bureaucrat.

The Chair: This is a total amount for 25 years, projected?

Ms Corke: Yes, this is an estimate. What I'm trying to do—

Ms Martel: I'm wondering where we are in the estimate; that's what I'm getting at. Because the fact of the matter is, 80% of Teranet's revenue from last year of \$100 million came from the government of Ontario for this project, right?

Ms Corke: Yes, yes.

Ms Martel: You have to wonder whether or not they're viable without that money. What happens to them when the project ends? I'm heading where John is heading, which is my concern about the long term. We can talk in glowing terms about their products and their sales and their international office, but 80% of their money last year came from the government of Ontario, from the revenue flow, right?

Mr Roote: But that's because their primary focus, until the implementation project is completed, is to do this work. That's the basis, that's the primary responsibility of the company. They have other business lines, but their obligation is to provide the resources required to complete this project. Until that's completed, they will develop other business lines, but they have to concentrate on this, because this is their *raison d'être*, really.

The Chair: Do you want to continue on, Ms Corke?

Ms Corke: I'm trying to illustrate the logic behind the business deal.

The Chair: Sure.

Ms Corke: In the last two columns, we have an estimate of the outflow of Teranet's expenditures on the core business and value-added products and services and the benefits to the economy, which we haven't quantified. But there was a very large piece of logic that this was supposed to kick-start, basically, a whole bunch of good things going on in the economy. We know for instance that, in directly created jobs, Teranet has about 800 people employed annually, so we know that there's direct job creation. We also believe that there are indirect jobs that have been created in the marketplace.

In terms of efficiencies and electronic service delivery, we did a quick calculation yesterday and we realized that in fact, just in terms of savings and disbursements to consumers associated with electronic registration, it was probably about \$27 million a year, and this is just the beginning of electronic registration, in savings and disbursements associated with not having to send someone to line up and do costly searches that take days associated with electronic registration. I know that some of your questions, Ms Martel, really get to the whole logic of the issue of how much revenue and the costs and so on.

The Chair: Then maybe now we can start another round, and I suggest about 10 minutes each, because that will get us almost to 12 o'clock. It's your turn, Ms Martel.

Ms Martel: I wanted to actually get a projection to 2007 for the government revenue flow. I'm going to assume that through the negotiations, you have some sense of what this will mean to you. I understand it was \$80 million last year, fiscal 2000-01.

Ms Corke: Do you want from 1991? Is that what you're wanting, from 1991 to 2007?

Ms Martel: That would be helpful, because you gave us the total of \$680 million, total implementation costs. Could you give us a projected total revenue stream to 2007?

Mr Roote: I have some staff here. We'll see if we can calculate that while we're in session.

Ms Corke: The reason that we take it out to 2017 is because the rate of return, which is the key issue, the 11% or whatever it is that's dictated by the—is it Consumers' Gas?

Mr Roote: Yes.

Ms Corke: Whatever that rate of return is, we don't realize rate of return—

Ms Martel: Immediately.

Ms Corke: —until 2017, and that's tied, of course, to the end of the exclusive licence period. So even though implementation finishes in 2007, it has never been the same finish date for the project as it is that you actually start to realize the prescribed rate of return. That's why we thought it was more useful to give you the overall exposure. Could we look at the time chart? Maybe that would help. I'm really trying to be helpful here.

On the key timelines, what we tried to do is show you, in that last column, which says "2001," what the result of the negotiations is likely to be. The completion of implementation is 2007. There's a 10-year time gap. This is because of the costs and the revenues and the way they match together. It takes a while before you realize your rate of return.

Ms Martel: I apologize; I wouldn't pretend to have expertise in finance at all. The rate of return is actually a benefit we're going to receive, right? I'm interested in our output as well in terms of the revenue that we are going to spend that would have been matched against what we thought we were going to spend in 1991 when we got into the project.

Mr Roote: We'll do the calculations of what it would be up to that point.

If I could just clarify what the rate of return is, the private sector partner and the government entered into agreements saying that until the company reached a rate of return on the original equity investment, and that's governed by a rolling average of the rate of return provided to Consumers' Gas as a utility, where there's a return on the investment of that percentage, the exclusive licence remains in effect. That's why the completion of the project will take place at one point, but the rate of return will be achieved at a later date.

In response to Mr Hastings's question earlier, it was assumed in the early days of the project that the company would not be able to pay dividends; it would return all of its revenues back into the project itself. Both partners in this arrangement, both shareholders, knew that the company probably would be running losses in the early years because it was starting up as a company. That became more protracted, because the downturn in the economy in the 1990s reduced their revenue flows, because their registration volumes dropped quite significantly. So that's one of the contributing factors for why it's out that long.

Ms Martel: I apologize if you answered this already: is there an obligation by Teranet to use all of the government revenues that come in in a given year for implementation purposes only?

Mr Roote: Yes, the revenue received from that was one of the reasons why we undertook the third party due diligence review that Mr Peters used as part of the report. I wanted third party verification that all of the revenue and all of the expenses were being properly allocated to the implementation project, and they've found they were.

Ms Martel: So there's a condition of the terms of the agreement and that will continue even under a revision to this agreement?

Ms Corke: Actually, we're going to tighten up that use-of-funds provision to make sure that resources are not diverted to other investments that don't have to do with this core business.

Ms Martel: Let me ask you about the staff, because you've said today that they have 800 staff at Teranet. How many of those staff are working on this implementation project?

Mr Roote: About 720.

Ms Corke: Yes, split between the automation and conversion and the operation of the system.

Ms Martel: So there's not a question of their deploying more staff in order that this project might be completed sooner; in your opinion, the overwhelming majority work on the project now?

Ms Corke: Yes, but it's because of that anxiety that we have built in that there is termination for breach if they don't put in the capacity that we require to finish this project. So part of the agreement is the capacity level that they are contracted to deliver. If they fall below that capacity level in any consistent fashion, they could be in breach.

Ms Martel: Is "capacity level" defined as numbers of people working on the project? So you set a figure for them?

Ms Corke: Yes, we set a figure for their output. It's in millions of minutes or something like that.

Mr Roote: The number of resources and time associated from that base each year, there's a requirement for them to invest in that.

Ms Corke: Additionally, to get to the productivity issue, because you could put high school students in there, we've asked them to covenant that qualified people will be the capacity issue.

Ms Martel: And are those new provisions that you've negotiated?

Ms Corke: Yes.

Mr Roote: They're strengthened provisions. There's an expectation of their obligation to provide that capacity. What we've done has just strengthened it and articulated it more.

Ms Corke: The business model itself provides a very high motivation for them to finish where they have shareholders riding them who want to see something out of the other end. So this isn't a sort of relax and just sort of breathe deeply and just go about your business kind of an arrangement. The business model itself means that you need to get to rate of return as fast as you can go.

Ms Martel: In fairness, though, if you look at the auditor's report and the initial discussion we had, you could have been led to draw the conclusion that, frankly, Teranet wasn't working terribly hard to get to the end of this project. This is one of the reasons why you're back again and why you've had to renegotiate, because I think that concern was there and we all saw it.

Let me go back to the bond issue. Correct me if I'm wrong, but how does government guarantee access to the system if Teranet goes into default, especially if the system is the collateral? How have you guaranteed that we will continue to have access in the—it might be unlikely—event that would occur?

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Mr Roote: In the default arrangement, if a receiver were to come in, the receiver could sell that asset without our involvement. So whether we determine we want to run it ourselves or whether another owner is going to be sold that asset, we have the right of review of whom that successor would be, so that we maintain access. We have to have that in order to run the land registration system in Ontario. That's part of the current arrangement.

Ms Corke: In addition, I would say we spent a lot of time this summer making sure we would have everything we need in order to do it: the source code, access to qualified staff, all of those things we would need practically for there to be a seamless situation in the event of any kind of financial disaster.

Ms Martel: So around that particular issue, you have strengthened the provisions that were in the current agreement?

Ms Corke: Yes.

Ms Martel: I am assuming, as a result, that the original agreement anticipated there might be a bond offering with the system used as collateral. Was that actually envisioned in 1991?

Mr Roote: It wasn't that specific, Ms Martel. The original contracts certainly contemplated that the company could acquire debt financing, if it were necessary to continue the project. But it wasn't so specific as to say whether it would be a line of credit, a bond offering or what it would be.

Ms Martel: You've said in your letter to us that "the ministry did not provide bondholders with any assurances or provide guarantees around the issuance." Can I also ask, did you provide any letters of comfort?

Mr Roote: Yes, we did with regard to the rating of the bond. We did provide the rating houses with responses or information relating to the company's relationship with the government, what we were doing with the company. That was not a guarantee of responsibility for the indebtedness, though. What we provided to them was that we were involved with the company, that we had an ongoing project with them and that we would be continuing to work with the company to see the conclusion of the project. But it wasn't anything to do with the financing, any guarantee of responsibility for the financing being acquired.

Ms Martel: Would letters of comfort provide any obligation on the part of the province to the bondholders?

Mr Roote: No, not to the bondholders. We don't have any legal responsibility for the debt, except through the ownership interest in the company. As I said, if the company were to fail, then the \$30 million in bonds we have would be affected, as would the value of the government's ownership interest in the company, as it would be for the private sector owner as well.

Ms Martel: There is no other obligation you are aware of, with respect to the government of Ontario, with respect to this particular bond issue?

Mr Roote: No.

Ms Martel: Whatever decision you go forward with with respect to the scenarios, and you've been good enough to outline most of those to us, does this require a decision solely by the minister, or is this issue going to go to cabinet?

Ms Lang: This is definitely going to go to cabinet.

Mr Spina: I didn't hear that.

Ms Lang: The answer is, this is definitely going to cabinet.

The Chair: You have time for one more short question.

Ms Martel: The balance of the records, the 12% that would not be dealt with under the agreement so you can finish by 2007—what happens to those records?

Mr Roote: We will do a review during the remainder of the project under the basis we've now negotiated. If we find along the way that the progress being achieved is equal to or perhaps greater than the pace we've negotiated, then we would entertain getting a decision to complete the project.

It doesn't preclude us from proceeding afterwards. Those records that are not then involved as part of the project itself would either remain in paper or some other decision could be made at some future point for them to be brought into the automated system on a different arrangement. But at this point they would remain in the state they're in at the conclusion of the project.

Ms Martel: Because your own staff are not capable of making that change?

Mr Roote: Yes.

The Vice-Chair (Mr Bruce Crozier): The government caucus. Mr Hastings.

Mr Hastings: May I continue my questioning, Mr Roote, on the financials of Teranet. I think you said previously that it's a privately held company, and therefore the earnings arrangements and all its financials are not available to this committee. Is that correct?

Mr Roote: That would be my position, yes.

Mr Hastings: Can you tell me, then, why Teranet has decided to let us know, presumably, that they had an accumulated deficit of \$44 million as of the end of this past fiscal year? If your thesis is that this should not be disclosed, why was that loss disclosed?

Mr Roote: That information was gathered when the Provincial Auditor reviewed the material relating to the company. As Mr Peters alluded to earlier, we've had some ongoing discussions with regard to the company's proprietary information, and we've had some ongoing discussions with the company about the need for transparency for government and members of government to understand the relationship with the company.

The discussions we've had with Mr Peters and with the company are that we do have an obligation to disclose information. If Mr Peters's determination is that he's obligated to reveal information provided to the Provincial Auditor, we would advise the company. What the company is concerned about is information that would be of competitive advantage in the marketplace, that they not be exposed, that competitors could say, "Ah, I can see what they're doing here," and could perhaps enter the situation and have information available through a public process that otherwise would not be available from a private company. That's the concern they have.

Mr Hastings: What would be the nature of some of the information they're so concerned about?

Mr Roote: Information relating to how much they're spending—

Mr Hastings: Proprietary software?

Mr Roote: Perhaps, how it works, how much they've invested in it and the return on that investment. They're concerned that that would become common knowledge and that, in a competitive marketplace, information that would otherwise not be disclosed if the company did not want it disclosed would become public knowledge. That's the concern.

Mr Hastings: Do I assume then from your comments that in this renegotiated agreement there is a protocol or an additional document that would indicate that you folks

have signed on our behalf as to what can be disclosed and what cannot be disclosed on the financials?

Mr Roote: On the financials, the company doesn't have a concern with regard to the Provincial Auditor reviewing information. It's how it may be disclosed publicly and, once it's disclosed publicly, that all their competitors would be privy to information that otherwise would not be available publicly. But that is not to preclude Mr Peters's meeting his responsibilities.

Mr Hastings: Is there a document that exists about non-disclosure?

Ms Corke: If I may have a go at that, we have spent a lot of time over the summer talking about disclosure and who has rights to what and so on and so forth. We are currently working on what we call "one text" that will capture our current groping toward agreement on disclosure. It captures the fact, as David said, that the Provincial Auditor can have access to Teranet's materials. It isn't in the contracts yet. We're not totally settled on how the wording will be, but the idea is that there will be some negotiated statements around disclosure that push as far as we can in the contracts. I hope that answers the question.

Mr Hastings: Finally, with regard to the bond issue: it matures on September 8, eight years from now, roughly.

Mr Roote: That's correct.

Mr Hastings: I assume that the bond rating services, DBRS and the other two—that it's a public document, and one can look up the interest rate and all that sort of stuff.

Mr Roote: Yes. They do publish.

The Vice-Chair: Mr Hastings, if I could, the auditor would like to comment on your previous statement. Is that all right?

Mr Hastings: Sure.

Mr Peters: Thank you, Mr Hastings, and thank you, Chair. The comment I want to make is that this does not impose on my office a restriction on reporting. We have an obligation to report, which is specified in section 12 of the Audit Act. What we have said is that if we decide to report so-called proprietary information, such as business processes, we would advise them that we were going to do so. But if we considered it necessary under section 12 of the Audit Act to disclose that information, we would disclose. The argument thus far has been whether or not we could have had access to the information in the first place. That has only very recently been resolved, that we can now have access to the information. I just wanted to clarify that we have not agreed to any restriction on reporting where we are obligated to report under the Audit Act.

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Mr Hastings: Mr Roote, can you tell us what the bond rating is for these bonds?

Mr Roote: It's an A-rated bond.

Mr Hastings: My last question revolves around security. Since September 11—and presumably you folks have been negotiating the strengthened agreement since the summer and that still is ongoing—to what extent have

security concerns come to the forefront, as much as you can tell us, in regard to your negotiations? Do you foresee that there will probably be an increased cost of doing business since the unfortunate tragedy of September 11?

Mr Roote: As Ms Corke mentioned earlier about the more integrated disaster recovery plan, from a physical security standpoint we haven't made additional physical security arrangements, but from the standpoint of protecting the system itself and the data in the system, we now have an integrated disaster recovery plan which would allow us to recover our business if something tragic were to occur. I think that's a much improved version than existed separately before, and that's the additional security arrangement we have with the company.

Mr Hastings: This is non-Internet-based, I assume.

Mr Roote: The registration function is becoming Internet-based, but they have the appropriate firewalls. They have also had that tested and verified as meeting the appropriate requirements for communications purposes.

Mr Hastings: Would it not be better to consider private virtual networks as a way of increasing your security on the data, aside from the firewalls?

Mr Roote: We could certainly pursue those discussions. I think one of the things we're trying to do is to reduce the cost for the users in having to use a dedicated virtual network as opposed to using common lines. But I take your point and I will certainly pursue that.

Mr John Gerretsen (Kingston and the Islands): I'd like to ask a few questions. This proprietary business really has me confused. We own 40% of the common shares, in effect 50% of the company, and you're telling us that you cannot provide us with the information relating to the Teranet company because of proprietary interests, or are you unwilling to provide that information? Somebody within your ministry surely must have the information. After all, we own 40% of this company. What is it: you can't provide us with that or you haven't got the information?

Mr Roote: From a comment that was made just recently, we are providing access to the information we have.

Mr Gerretsen: I understand. But are you saying that there are certain aspects of the Teranet operation and the Teranet company that we, the taxpayers, as 40% shareholders are not being provided by them? Is that the issue, or is it the issue that because of an agreement that's been reached with them you cannot disclose that information? I just want to have it clear in my own mind.

Mr Roote: I think I understand the distinction. Certainly from a standpoint of the government's right to know what the arrangement is, there's no restriction on the access. The company's concern is the disclosure—how pervasive does that become? If they have issues that relate to the specific ways they do business or the process they use or the amount they've spent on certain products, if that became known in a detailed way, they're con-

cerned about how that would affect their interests in the marketplace.

Mr Gerretsen: I understand that, but that's not the concern of the auditor or of the committee. The concern of the auditor and the committee is that the money that has been extended on this project over the last 10 years has been extended properly, and what the ramifications of that are. We're not talking about giving away trade secrets. What we're talking about is knowing what has actually happened there from a financial viewpoint.

It's my impression from going through the correspondence that you've sent to the auditor and from comments that the auditor has made and that you've sent to the committee over the last eight or nine months, that in effect this proprietary notion that this information cannot be shared with anybody has been held right up at the forefront by the ministry. I just want to make sure what you're saying is that you've got the information but you can't give it to us.

Ms Corke: Maybe I could add something to that. We have the information and Teranet has agreed to share it with the Provincial Auditor. One of the outcomes of the summer's discussions has been that Teranet is willing to share its information with the Provincial Auditor.

Mr Gerretsen: The next question gets back to the 12% of the properties that you won't have on-line in 2007. I think it's fair to say that these are probably the worst properties, from a description viewpoint, in the whole province. Have you got any idea as to what percentage of land mass of the province of Ontario this 12% would represent? I would think it may be a vast amount of land that, in effect, wouldn't be part of a system.

Mr Roote: We could do that calculation, but I don't have that at my fingertips.

Mr Gerretsen: I guess what you're saying is that those properties, although they were in the original proposal to be part of the system by the year 2000 or 1999, may never be part of the system?

Ms Corke: No, I don't think we're saying they would never be. I think what we're saying is let's get there and see what we've got left and what happened to the cost and the timelines going forward. When we came to you last time we had been toying with an idea of transaction-based automation and conversion. That was one way we were looking to problem-solve this thing. We decided, in fact, that that's not the best way to go forward on the large bulk of projects left, but that could be a methodology. So you could do the automation and conversion on a transaction basis.

Mr Gerretsen: I would suggest that those properties probably needed much more than any of the other properties. The properties that are lots in plans of subdivision etc don't necessarily need to be part of this system; people pretty well know what they're getting. But it's precisely the ill-described properties where you need this system in order to give the general public some assurance that they're actually getting what they think they're getting.

Ms Corke: The only question is whether they should be automated and converted on the same financial calculus, because there are so many unknowns around them.

Mr Gerretsen: I understand that.

You're saying that 62% of all the properties are automated right now.

Mr Roote: About 70% are automated; 62% are in land titles.

Mr Gerretsen: I'm sorry, 70% automated. What percentage of properties can then be accessed, the titles to them, from office computers right now?

Mr Roote: The e-reg properties—

Mr Gerretsen: Yes.

Mr Roote: Are you talking from search, searching?

Mr Gerretsen: Yes, a ballpark figure.

Mr Roote: Almost all of the properties can be at least accessed—

Mr Gerretsen: All of that 70%?

Mr Roote: Yes.

Interjection.

Mr Gerretsen: In your cost analysis, where you say you expect staff savings in the registry office to be over \$200 million, isn't it a fact that a lot of those savings are due to changes in the way registry offices work nowadays? At one time if you were caught behind a counter you were subject to six months' imprisonment and a \$1,000 fine; now you can't find anybody to serve you and you've got to get your own documents and things like that. I don't think there's anything necessarily wrong with that, but the point I'm trying to make is that those kinds of savings, having fewer registry office staff getting the documents and everything that goes along with it, have nothing to do with Teranet. They were decisions made by the government, in effect, to go to a self-service system. When you say there's \$200 million in staff savings, I say to you that you would have had that—it's a little bit like the contract that you're fully familiar with, the Andersen Consulting contract, where a lot of the savings that government is getting are as a result of the government changing practices; They have nothing to do with the new systems that were implemented.

Mr Roote: If I might, certainly there have been savings as a result of those arrangements, Mr Gerretsen, the self-serve, pulling the documents and putting them back, but I can say that one of the substantial savings we've achieved as a result of automation is the ability to share work electronically now, where offices can actually help each other out. An increasing percentage of our documents that we're actually certifying for registration purposes now can be shared in an electronic way. The work can be shifted all over the province. So if there are large volumes in some of the larger offices, some of the smaller officers can actually get that work on-line and do it. Without the automation, that would not have been possible.

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Mr Gerretsen: And let me say that I'm all in favour of the new system, compared to the way it was 10 or 15 years ago. It's an improvement. It's just that some of the figures that you use to justify it, I think, are somewhat nebulous.

The registration costs: who set those fees?

Mr Roote: For the registration fees? They're set exclusively through the government.

Mr Gerretsen: Will that continue to be done by the government?

Mr Roote: Yes.

Mr Gerretsen: Even past 2017?

Mr Roote: Yes.

Mr Gerretsen: There's a statement in here that basically says that ultimately the cost to the consumer in completing a land-related transaction should decrease. I mean, the biggest cost is—well, the land transfer tax, over which you have no control because that could be changed at any time, but when you look at the registration costs, my God, they've gone up from \$12, maybe, 10 years ago to \$60 a document now. Where is the consumer going to save money when the registration costs in effect are going up by 500% in the last 10 years?

Mr Roote: Well, the registration costs did increase in 1993 and then again on December 5 last year. Part of that, of course, is to ensure that we can complete the implementation of the project. Thereafter, the discussions we've had are that that should allow us at the completion of the project—all of those costs associated with completing it will not only decline, they'll be eliminated. We would then be doing fee reviews to see what the possibility is to reduce those registration fees.

However, as I'm sure you know because you have quite a familiarity with the system itself, in the conversion of records from registry status to land title status, the searching required to do that, the legal community has been very consistent that there's a substantial savings in the cost to do searching once the property is converted from registry to land title. So that's a huge saving in a disbursement sense that gets passed on to the consumer.

Mr Gerretsen: I think you're overstating that, quite frankly. There may be some savings, but that saving is more than offset by the increase in registration costs over the last 10 years. There's no way that you would spend in disbursement costs anything more than about \$20 to search an average title, and now with the new system it's maybe about \$9 or \$10. But when the cost of registering the document has gone up from \$12 to \$60, I would say the consumer is paying more now overall than they were before.

Mr Roote: Yes, if you're searching in title, but if you're searching in registry, those searches can be very long, as you know, and that's where the big saving is: converting the properties from registry to title status. We've had information from the legal community saying there are very substantial savings there.

Mr Gerretsen: Perhaps I could just make one final comment. It again deals with the proprietary interest sit-

uation, and it deals with the workings of this committee and I guess the right of members to know in general, or the members of the Legislature to know.

I can well understand that there may be certain aspects of how Teranet operates etc that they don't want their competitors to know, but on the other hand, when we're talking about the strictly financial aspects of it, that's what this committee is for and that's what the Provincial Auditor's office is for. I think your arguments with respect to not providing that information, or not providing it as willingly as I think you should have, leave a lot to be desired. I hope the ministry will take another look at that and will on its own come to the conclusion that perhaps the arguments it has been using in order to not provide that information aren't that sound.

Mr Roote: Well, I think we have, and as Mr Peters has said, I think we've resolved that. It has been a difficult process, but I think on a go-forward basis that is not an issue.

If I could say perhaps just one further thing for Mr Hastings, my staff did advise me that the Teranet system, the electronic registration, is a private network. It just has Internet access, so it is not a public network.

The Vice-Chair: Ms Martel had one more question, and the government had three minutes, so do you want to give her three minutes? There you go.

Ms Martel: It will benefit us all, actually.

During the first line of questioning, Ms Corke, you had some other items that you were going to add, and I was pursuing a different line of questioning so we never got back to it. I wonder if you can just finish up with that now, if you don't mind.

Ms Corke: We've one way or another touched most of them during the course of the conversation.

The other items that we put on the table this summer for negotiation and have pretty well resolved are the best-practice approach to integrated disaster recovery, which we have talked about here, in the event of a physical disaster; clarifying and solidifying the full access to the electronic service delivery infrastructure, the system, in the event of financial or other impediments to Teranet delivering on our behalf; control over fees associated with basic electronic service delivery; a best-practice approach to privacy compliance—my ministry is in fact the lead for privacy in the government, and because Teranet operates within the constructs of a data licence, we wanted to be sure the privacy compliance was best practice and highest possible standard; improved liability protection for consequential damages arising from errors in the conversion process; and the governance process for system development and the new product and services development. We've much embellished the governance processes all round.

So those are the things that we have put on the table as things we wanted to make sure we captured while we were resolving the implementation issues. That's probably why it's taken us such a long time; 12 to 13 weeks is fairly intensive. So there hasn't just been the one item on the table; there have been the others. Over 11

years, you've got to figure that you would set a contract slightly differently now than you would have 11 years ago, knowing all of the things that one knows in best practice and commercial contract law.

That was it.

The Vice-Chair: Thank you. Mr Hastings, did you have one more?

Mr Hastings: Mr Roote, could you provide the committee with what a good, realistic unit cost would be, in going from the registry system to the title, for the consumer?

Mr Roote: A unit cost for—

Mr Hastings: In doing a house, say, of \$200,000. You can pick your values.

Ms Lang: If I can just clarify, Mr Hastings: you're asking for a comparative cost of what it was in registry versus what it is in title now?

Mr Hastings: Yes.

Ms Lang: I think we can do that.

Mr Hastings: What it used to be, and when you go to this system?

Mr Roote: Sure. We certainly could construct what would be a typical example or examples.

Mr Hastings: That would be great. Thank you.

The Vice-Chair: OK. The Provincial Auditor would like to make a comment as well.

Mr Peters: Yes. It's almost a question to you, Mr Hastings. You raised the question that you wanted to know what the profit and loss of Teranet had been since 1991.

Mr Hastings: If that was possible.

Mr Peters: Yes. The question on that and the answer that I believe was given is that I could obtain that information. I just wanted to make sure that it is clearly understood that that is not information that in my opinion Teranet can say yea or nay to, because that information is publicly available, and it's publicly available to you. So we could have two ways of going about it: we could have me look at it and then give you the information, which I would do, or could the ministry not provide it directly, because it is public information? I don't think there's a proprietary—I would not consider the financial results published in the financial statements, audited by a private sector accounting firm—I believe the auditors are a private sector firm. Standard and Poor's gives a bond rating based on that information, so it must be public.

I'd like to get out of a little bit of work here, that I have to do it and report it to you. I was just pleading with you, if you could see your way clear to provide that information to the committee, because it is publicly available. I think in the letter of October 25 you also refer to the fact that the information is on their Web site.

Mr Roote: Well, certainly with regard to some of their revenues, their total revenues.

Mr Peters: Yes. I think Mr Hastings said—that's why I need clarification. The question was really, what was the bottom line of Teranet since 1991, as I understood the question. I think that is public information, which should be made available under no restriction.

The Vice-Chair: Mr Roote, could you provide that, then, to the committee directly?

Mr Roote: I'm sure that we can certainly find the information and provide it.

The Vice-Chair: There were also several other questions that have arisen, and I understand the clerk will provide those questions to the ministry and we'll go from there, I guess. Everybody satisfied with that?

Thank you very much for your time this morning. We appreciate it.

Any other business? Do you want to come back in the chair now?

Mr Gerretsen: Well, I guess we need some direction as to what we want our researcher to do now.

The Vice-Chair: Come on back, Chair. You're the one with the heavier gavel.

The Chair: Do you have any comments, Ray?

Mr Ray McLellan: From the committee's point of view, I'm not sure where we're going to go. We've had

the first hearing. This is the second hearing. They're in the middle of the negotiations, or I should say finishing them off. We don't have that information. I'm not sure, really, whether or not we can go to a report stage at this point.

Mr Maves: The clerk said there are some further questions they wanted to forward, and there have been some requests for information, so we have to get that back before we can get into our report stage.

The Chair: OK. Well, then, why don't we hold this in abeyance until we get the answers to those questions and then we can deal with it at that time. OK? Agreed?

Mr Patten: In other words, we'll talk about this in camera.

The Chair: Or out of camera; whatever you wish. I know we've got nothing to hide. OK? Meeting adjourned.

The committee adjourned at 1200.

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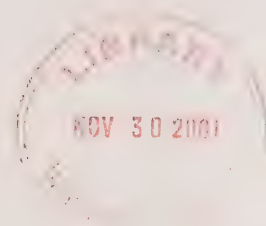
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LEGISLATIVE ASSEMBLY OF ONTARIO

STANDING COMMITTEE ON
PUBLIC ACCOUNTS

Thursday 8 November 2001

ASSEMBLÉE LÉGISLATIVE DE L'ONTARIO

COMITÉ PERMANENT DES
COMPTES PUBLICS

Jeudi 8 novembre 2001

*The committee met at 1006 in room 151.*SPECIAL REPORT, PROVINCIAL AUDITOR
MINISTRY OF THE ENVIRONMENT

The Acting Chair (Mrs Leona Dombrowsky): Good morning, ladies and gentlemen. Welcome to the public accounts committee. I am substituting for the regular Chair of this committee, Mr Gerretsen. We are going to begin at this time. We have some more members coming. I would ask that when the speakers come to the microphone they identify themselves for the purposes of Hansard.

We have some representatives from the Ministry of the Environment at the table here this morning, ready to offer some brief comments, as I understand. No brief comments? So we can begin with questions from members of the Legislative Assembly. Each party will have 20 minutes and I would like to begin with the Liberal Party members.

Mr James J. Bradley (St Catharines): I'll let the NDP start if they want to.

Ms Shelley Martel (Nickel Belt): Thank you to the MOE staff who are here. I can't speak for the rest of the committee members, but I feel at a bit of a disadvantage since we just got a package of answers dropped on us as we arrived which may well deal with some of the questions that I had. I had hoped that this package would have been given to members before this morning, before this committee meeting started.

Let me deal with page 10 which talks about your compliance inspections. I had some specific questions actually with respect to your number of staff available for inspections. The specific question I had was to convert the number of person-years to real live bodies so we could get a sense of how many people we do have available. If I'm reading this correctly, under the chart that you have provided you have 174 individuals who, among other things, carry out inspections. Is that correct?

Mr Bob Shaw: My name is Bob Shaw. I'm the regional director of central region. That is a correct interpretation.

Ms Martel: Can I ask, in terms of their responsibilities, what portion of their responsibilities do inspections take up? They are obviously not full-time; you provided that to us this morning. What is their expecta-

tion in terms of number of inspections they will carry out, part and parcel of all their other duties?

Mr Shaw: On average they would be expected to spend approximately 20% of their time on doing proactive inspections. The actual number varies because, depending upon the type of facility which is being inspected, it can vary from three to four days per inspection to a half-day per inspection. It's the mix that will determine the final number.

Ms Martel: Do they have a certain schedule that they're to follow on an annual basis? I know you do water plants annually.

Mr Shaw: Yes, we have a work plan. That work plan is revisited every year and priorities are established every year in that work plan. The work plan would set out the minimum cycle which is expected. For example, on municipal sewage treatment plants, it would be that 25% of the facilities are inspected annually. Then each of the 15 districts in the province takes that and derives the minimum number of inspections of municipal sewage treatment plants that they would expect to do. Then, that is further divided down in that inside each district the it normally gets partitioned off in geographic areas and environmental officers are responsible for a geographic area. So it may be that after all of the inspections to be done have been determined, depending upon the types of industries and facilities inside of an environmental officer's geographic area of responsibility, that would actually determine the number of proactive inspections that particular individual would be carrying out.

Ms Martel: In terms of an entire cycle where you get back to all, to be able to ensure that all of those inspections are done, is that a three-, four- or five-year cycle?

Mr Shaw: For our priority facilities the maximum cycle is a four-year cycle. For example, municipal sewage treatment plants are on a four-year cycle. I'd like to add that where we have significant non-compliance found during an inspection, unless we have a specific compliance program in place to address the deficiencies that were found during that inspection, we will re-inspect that plant in the next year.

Ms Martel: In the next year, until they come into compliance.

Mr Shaw: Yes.

Ms Martel: Are there other priority areas—you mentioned water and sewer—where you could have a four-

year cycle? Are there others the ministry has targeted? I'm assuming this means outside the SWAT team.

Mr Shaw: Yes. For example, other priority areas are hazardous waste transfer and processing facilities—I was going to say “municipal,” but the proper term is non-hazardous waste disposal sites, PCB storage facilities. MISA dischargers: these are the industrial dischargers which are underneath the clean water regulations. You had already mentioned municipal water treatment plants.

Ms Martel: That's it?

Mr Shaw: I may have missed one or two of the priority inspection areas. I'd like to clarify those are not all of the inspection areas, but in some inspection areas we don't approach them on a cyclic basis; we approach them on doing X number of inspections per year. For example, when you go into the pesticide area and you may be looking at the storage or handling of pesticides or the use of pesticides, the numbers vary tremendously in terms of facilities every year. If we're looking, for example, at our pesticides being applied properly and perhaps we are focusing on the landscaping business, we're now down to looking at whether pesticide applicators are properly posted in a residential area that they have sprayed. Those numbers are not fixed numbers, so we try to do X number of those per year rather than ever trying to build a cycle to get through them all.

Ms Martel: What's your inspection cycle with respect to biomedical wastes?

Mr Shaw: Biomedical waste is caught up under the hazardous wastes. For the hazardous waste transfer facilities it's once every two years. It was hiding at the top of the page.

Ms Martel: Just so I'm clear, this is not a responsibility of the SWAT team, is it?

Mr Shaw: The districts carry out what we call a cyclic baseline-type inspection function. What we are trying to do using the staff of the districts is to make sure that we are carrying out inspections across all of the program areas or all of the types of facilities that the ministry regulates, and we're trying to make sure that we have a presence in all of those program areas. As we have just discussed, in some cases in those priority areas we in fact try to make sure we have visited every one of those facilities within something between one and four years.

That's the work that's being carried out by the districts. Basically, they are doing that in order that they can assess compliance with our requirements and, where they find non-compliance, that they are able to initiate abatement action to address it. It also affords us the opportunity to do some outreach, to make sure that our regulated stakeholders are aware of any changes which may have occurred in policy or regulation. Those inspections also provide us with information which can then be subsequently used for policy development. So that goes on year after year through our district offices.

SWAT adds on top of that. It's a complementary activity. It is a very focused activity.

Ms Martel: Who directs the actions of SWAT?

Mr Shaw: The environmental SWAT team operates under the director, and the director reports through to the assistant deputy minister of operations division.

Ms Martel: So the director outlines the inspections that are to be undertaken by the SWAT team?

Mr Shaw: The director, in consultation with the assistant deputy minister, would do a strategic assessment of what type of inspection should be undertaken.

Ms Martel: What I'm getting at is that it's not set by the district at all. The district has no control over what the SWAT team is doing?

Mr Shaw: The district provides input to the SWAT team. We use the intelligence coming out of the districts as to what they are finding, and that is one of the forms of information that the SWAT team would take into consideration. If you're asking me whether or not the district manager can pick up the phone and order up the SWAT team for tomorrow morning, the answer is no.

Ms Martel: In terms of the criteria for the SWAT team, are they dealing with the highest priority in terms of government's concerns about inspections?

Mr Shaw: I'm going to ask the director of the SWAT team to answer that question.

Ms Martel: Sure. Great.

Mr John Stager: My name is John Stager. I'm the director of the environmental SWAT team.

In terms of selecting the sectors of focus for the environmental SWAT team, we've actually taken a two-staged approach. We've been in existence as an organization since the fall of last year. Recognizing that we wanted to get out in the field and initiate inspection programs, our first stage of risk assessment was really an extensive dialogue with the regional and district offices. It was a dialogue based on their judgment and knowledge of sectors and the extent of risk to human health and the environment. So the first choice of sectors was really based on that kind of dialogue and the knowledge that the districts and regional staff have on the various sectors and the industries within those sectors.

Since we did that initial cut, we've taken a much more formal approach to risk assessment and we're actually using a risk assessment methodology to identify and select sectors of what we would consider highest risk to human health and the environment.

I understand that the committee members have received a copy of the Protecting the Public Interest document, which is the risk assessment methodology that SWAT is using to select our sectors. We're going through this methodology right now within SWAT, again to select the sectors that we feel represent the greatest risk to human health and the environment.

In terms of the physical selection of those sectors, it's based partly on the risk assessment; it's based on a continuing dialogue with the districts and the work they are doing and how we can complement and supplement the kind of work that's going on in the districts. It's also a dialogue with our own senior people in terms of current events and types of sectors that we feel represent risk.

Ms Martel: Can I ask where biomedical waste fits into that?

Mr Stager: Biomedical waste is not a sector that we've focused on to date.

We have focused on a number of what we would consider high-risk sectors. We've been doing work in metal electroplating because of the hazardous waste implications. We've worked in hauled septage because of the potential impact of hauled septage. We've done hazardous liquid industrial and solid waste haulers at various points in Ontario, looking at their operations, their loads and the types of instruments they need to do their work. We've looked at hazardous waste processing and transfer stations, again at locations throughout Ontario. We've looked at pesticides and we've looked at some recycling. Those sectors have been based on a risk assessment.

We continue to do that, and we are right now identifying potential sectors for the future for the SWAT to focus on, again in conjunction with the district offices.

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Ms Martel: I just want to be clear on the number of inspections that have been undertaken by SWAT so far, because there are a couple of different numbers in some information we've received. On page 10, we have "December 2000, completed 78 inspections in 2000-01." Was that for the period December to March 31, 2001?

Mr Stager: Yes, it is.

Ms Martel: OK. Now, we had a second set of numbers given to us June 25, 2001. This is from a Ministry of the Environment media backgrounder which says that in September 2000 the minister created this, and up to this point, which was June 25, we had had 250 inspections. That's up to the end of June. Can you tell us what the number is as close as you can to this date?

Mr Stager: Sure. I think you did receive an update as of September 7. The numbers were 460 inspections. Obviously it's an ongoing initiative, so we've done considerably more inspections since then.

If you look at the sectors right now, for example, we've done a total of over 600 inspections. I've certainly got the numbers within the sectors, and I can provide you with that as well.

Ms Martel: Let me be clear. As of today, we should say that SWAT has done 600; is that correct?

Mr Stager: Yes. Over 600.

Ms Martel: And that is the period from when to when?

Mr Stager: That is the period from December of last year to the present.

I will say that this number also includes some facilities that are no longer in operation, and the inspection—that is specific to septage haulers, but the inspection was done because the basic facility and the operation is still there; it's just no longer in business. So we did inspect facilities and disposal sites for those kinds of operations that are actually not physically around any more but still potentially have an impact on the environment.

Ms Martel: That would be almost a full year. Originally, at a committee meeting I was not at, I understood the ministry said the SWAT team would be doing 1,000 inspections per year. Will you hit that target for next year, because you won't for this year?

Mr Stager: I believe the wording does say "in its first full year of operation," and the period between December and April of this year was a building time for SWAT, when we were still hiring the 30 inspectors. We anticipate, though, that we will accomplish 1,000 inspections this year.

Ms Martel: What is your term for "year"? I thought you said December, and today is November 8. You're up to 600. I don't think you're going to get 400 done in the next three weeks. Do you?

Mr Stager: Well, it goes until the end of December, the calendar year.

Ms Martel: All right. So you may. OK.

Mr Stager: We may accomplish that. We feel that we can accomplish that.

I do want to add something to that, though, and this is something that Bob Shaw had mentioned earlier. Keeping in mind the kinds of inspections we do, we can do a septage hauling inspection that takes us four hours. We can do a hazardous waste facility with 10 officers that takes us four to five days to do. So there is a lot more to it than the number of inspections. It's also the types of inspections that we focus on where we believe there will be problems.

Ms Martel: And I want to be clear: you have 30 full-time staff dedicated to the SWAT team?

Mr Stager: We have 30 full-time inspectors. We also have nine investigators.

Ms Martel: And those are permanent positions?

Mr Stager: Yes, they are.

Ms Martel: OK. The 174 positions that are mentioned on page 10, where there's a combination of inspection responsibilities and others, are full-time positions as well?

Mr Carl Griffith: Carl Griffith, ADM of operations division. Yes, they are.

Ms Martel: OK. So would this committee be fair in assuming that we have at least 30 for sure who do inspections full-time and another 174 ministry staff who have inspections as a part of their responsibility? That would be the staff complement that would deal with inspections? Is that a fair—

Mr Griffith: Yes, that's a fair assessment.

Ms Martel: OK. And all of those are permanent, obviously.

What is clear is that the inspections with respect to municipal water system or municipal sewer and water—I apologize if it's just water—are annual, and then you've given us a cycle for the others. Every year—

Mr Griffith: Yes. I'm sorry.

Ms Martel: This year you had, if I'm correct, a number of contract staff who were also employed to help with the water inspections?

Mr Shaw: As of the beginning of this fiscal year, fiscal 2001-02, the ministry received funding which enabled it to proceed with hiring 25 additional staff members. Most of their time is spent doing the inspections of the water treatment plants. They have been distributed to the districts throughout the province.

Ms Martel: Let me ask: are those positions permanent?

Mr Shaw: Those positions are two-year contract positions.

Ms Martel: Two-year contract? And we are where in terms of that contract? Were they hired on April 1, 2001? Is that the start date?

Mr Shaw: Their funding goes through to the end of fiscal 2002-03.

Ms Martel: March 31, 2003?

Mr Shaw: That's correct.

Ms Martel: And by virtue of the fact of having those folks on, you are able to do all of the water treatment plants in the province? If you didn't have them, would you be able to?

Mr Shaw: We could do them, but we would then have to pull back on inspections in other sectors. By having these additional people on, we are able to maintain our normal cycle of inspections, and then also do all of the water treatment plants annually.

Ms Martel: So your ability to continue that without having to redeploy from other areas depends on whether or not some of that funding can continue after 2003.

Mr Shaw: That's correct.

Ms Martel: Just so I'm clear on the number of inspections—I'm sure that it was in the documentation—it was about 4,000?

Mr Shaw: Sorry, the total number of inspections?

Ms Martel: Yes.

Mr Shaw: That are carried about by district offices?

Ms Martel: No, not by district. I think we have the full numbers in some briefing material. I'm just looking at your cycles; my apologies. It looks like this year, a little over 4,200.

Mr Shaw: By "this year," the fiscal year we're in or the one we have finished? In the one we have finished—that would be fiscal 2000-01—a little over 4,200 inspections were conducted by the district staff. That does not include the 78 inspections that Mr Stager spoke about that were carried out by SWAT, nor does that include any inspections that were carried out by the smog patrol.

Ms Martel: Can you give us those numbers?

The Acting Chair: Ms Martel, that would conclude your time.

Ms Martel: Maybe in the next round you can just give us that number.

Mr Shaw: Certainly.

The Acting Chair: We will go to the members of the government.

Mr Steve Gilchrist (Scarborough East): Thank you for what appears to be a very comprehensive series of responses to the questions. I'd like to follow up first so we can encapsulate all of the lead-in questions Ms Martel

has just asked you to respond to into some short, pithy little conclusions here.

Am I correct, then, if we have 174 folks assigned to the normal inspection process and 39 more on the SWAT team, that that 213 would be greater than—when you cite 211 was the total number of environmental officers back in 1996, there were no other groups akin to a SWAT team off on the side back then? We would be comparing, honestly and realistically, 211 people focused on this aspect of the ministry's work; today you have 213?

Mr Shaw: If I may run the numbers, in 1995-96, the number of environmental officers in district offices only was 211. That number was reduced subsequently to 174. Since that time, we have now added 30 permanent inspector positions through SWAT; I'd better do the math carefully here.

Mr Gilchrist: And I thought you said there were nine others.

Mr Shaw: Those are investigators, who were not included in that original number.

Mr Gilchrist: So there would have been investigators back in 1996 as well?

Mr Shaw: There were also investigators in 1996.

Mr Gilchrist: OK, I just wanted to get a handle on apples to apples.

Mr Shaw: Then we have also added 25 inspectors who deal with our water treatment plants. That brings us to 229 people: 55 of those people are dedicated to conducting inspections and another 174 carry out inspections as part of their regular job duties.

Mr Gilchrist: Now, those inspections, the regular duties—and forgive me as somebody just subbing on to committee here today and not having been privy to past discussions here in public accounts—am I correct in my recollection that industries are now required to fill out their own engineering reports and send them in to the MOE to demonstrate that they are operating in compliance with the regulations?

1030

Mr Shaw: We have a requirement under the drinking water protection act that the municipalities retain an independent engineer and undertake an assessment of their works and submit those to the Ministry of the Environment. I don't know whether that's what you are thinking of.

Mr Gilchrist: Sorry, municipal corporations, yes. How many of those compliance reports does the ministry receive or has the ministry received?

Mr Shaw: Every municipality complied with that requirement.

Mr Gilchrist: OK. So every municipality may not have a waterworks, but—

Mr Shaw: Sorry, let me rephrase my answer, if I may. Every municipality that had a waterworks submitted one of those engineering reports for every waterworks it had. For example, the city of Toronto has more than one waterworks; it submitted one of those reports for each of its waterworks.

Mr Gilchrist: Would it be fair to characterize that this is an inspection in another form that historically either was not done or would have to have been done by the MOE?

Mr Shaw: You could characterize it that way, but the inspections that are carried out by the district staff or by SWAT we call compliance inspections. The intent there is to go out and determine whether or not the facility or the activity is taking place within the limits set out by legislation and regulation. The engineering report was an assessment of the works to determine whether or not the works were capable of performing or delivering to the standard set by the province. So in essence it is a type of compliance inspection, but it's a different type of assessment, much more detailed.

Mr Gilchrist: The one being done by the engineers?

Mr Shaw: The one the engineers did, yes.

Mr Gilchrist: If in fact they are more detailed than the compliance inspections that traditionally have been done by the MOE, is it, again, fair to characterize it that there is a far more thorough analysis being done of the infrastructure, not just at the end of the pipe, as it were, but, if I'm getting you correctly, the very capacity of the systems to operate within standards, to demonstrate that municipalities have maintained them properly? If that's true and if they were all built to manufacturers' specs and maintained that, it would be fair to have an expectation that the system should be performing properly. While it's still extremely appropriate to go in and inspect, there's probably a lower risk factor in that site, if all of those other sort of preconditions have been dealt with?

Mr Shaw: When we go in to inspect, one of the things we examine is whether or not the facility is producing a quality of water which complies with the provincial water quality standards. If the facility was built and designed in accordance with the requirements of the ministry and maintained, there is an expectation, therefore, that that facility would be able to produce water which is compatible to the Ontario drinking water standards. But we look at other aspects as well when we go in to do an inspection. So that engineering review is certainly increasing the confidence levels that the municipal waterworks in the province, if operated in accordance with their design, will produce a quality of water which meets the provincial drinking water standards.

Mr Gilchrist: Thank you for that answer. In your response under "Projected Compliance Inspections," you list the number of environmental officers, but you also list the number of inspections. I'm pleased to hear that the SWAT team expects to meet its goal of 1,000 inspections in its first full year. Is it fair to expect that the inspections being done by the 174 other environmental officers will be maintained at or around the number in 2000-01? Or is there a trend line—

Mr Shaw: There is a trend line which is actually going up.

Mr Gilchrist: It is going up?

Mr Shaw: It's not going up incredibly steeply, but there's been something like a 12% increase in the number

of inspections conducted by staff in the district offices only over the last three years. So we are seeing an increasing trend line.

Mr Gilchrist: That's an impressive productivity improvement. Therefore, it would be accurate to suggest that when we add the 4,270 inspections that were done by the environmental officers last year, which I take from your comments will at least be repeated this year and probably increased, plus 1,000 inspections by the SWAT team, would that total of 5,270-plus legitimately allow the ministry to claim that's the greatest number of inspections in its history? I see the highest number you've listed here was in 1996 at 4,953. Had it ever been higher in the years before that?

Mr Shaw: I cannot attest to whether it's ever actually been higher. If it has been higher, it would not have been significantly higher. It would have been maybe at the 4,500-to-5,000 mark. It would be legitimate to say that the combined efforts of the district offices in 2001-02, plus the approximately 1,000 inspections SWAT intends to carry out in the fiscal year 2001-02, will result in more inspections having been conducted by ministry staff than in any other year we are aware of.

Mr Gilchrist: That's very reassuring.

The only question I had on this particular topic—perhaps you could elaborate on the chart shown in number 1. With the same number of environmental officers, the person-years that have been spent performing inspections have increased by 50% from 1998 to 2000. I guess it follows that a lot more of their time has been allocated to that specific function, or is that a mischaracterization?

Mr Griffith: I'm sorry. Which table are you referring to?

Mr Gilchrist: On page 10, you have a chart showing that there were 28.19 total person-years spent performing inspections, and that has increased to 43.04, which is just over a 50% increase in two years. That is impressive.

Mr Shaw: The increase between 1998-99 and 1999-2000 was an actual increase which would be reflected in terms of additional staff resources going to inspections. The majority of the increase in 2000-01 was due to the fact that in a six-month period the ministry inspected every municipal water treatment plant in Ontario. That had not been planned in. Although I don't have figures, as we're not at the end of the fiscal year, I expect that number of 43 person-years will even be higher in 2001-02. There is definitely an increase. As we talked earlier, there are in fact now more inspectors than there have been carrying out inspections.

Mr Gilchrist: Excellent.

Let me quickly raise another topic, because I don't want to take all the time from my colleagues. For certificate of approval compliance—and forgive me, I had just crossed two wires when I talked about an in-the-water context—what are industries expected to submit to the ministry now to show they're within compliance of the C of A process?

Mr Shaw: If it is an industry which is regulated by one of the clean water regulations, more commonly

referred to as the MISA regulations, then each one of those regulations sets out a distinct reporting requirement and what analysis must be done for each one of those industries. Generally, I think that the reporting requirement is on a quarterly basis. If you are an industry and you are not regulated under the MISA regulations, then your reporting requirements to the ministry would be set out in your certificate of approval. I'm only talking about those industries which would have, say, an effluent discharge to a water body or watercourse.

Mr Gilchrist: How has that reporting process changed over the years? Is this something that has always existed or can it reasonably be stated that this is another level of protection, another source of information that historically was not available to the ministry, or at least in as much detail?

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Mr Shaw: Prior to the introduction of the clean water regs, that type of information did not exist in the level of detail that it currently does to the ministry. When the clean water regs were brought in, the initial phases of the clean water regs involved a monitoring component only, and then subsequently, after I believe a minimum of two years of monitoring, the limits were established. All of the operation clean water regs are now—this probably isn't the proper jargon—compliance-type regs. They set the limits that the companies must meet.

Mr Gilchrist: When industry sends you their detailed reports claiming that they're within compliance, presumably there have been opportunities for the ministry to have performed inspections on some of those sites, or maybe many of those sights. Have you seen any kind of a pattern of misinformation from industry, or do you find in the course of your inspections that you can rely on the information that has been supplied and that in the overwhelming or—I shouldn't characterize it; I'll let you tell me. What percentage of time do you find that this information has been accurate?

Mr Shaw: I'll use the term "overwhelming" because I don't know what better one to use. In the vast majority of times the information is accurate. Maybe I should put it the other way: I'm not aware of an attempt by a company to submit erroneous data to the ministry on purpose.

Mr Gilchrist: That's really reassuring. Let me just state it right out: it would appear then, if that is the case, that this has added another entire local complexion to the ability for any ministry of the government, which is very centralized and even with your assortment of offices around the province it's tough to get to every factory, it's tough to get to every waterworks every day—it would seem to me, if that's the experience you've had, that the ministry probably looks on this as their almost private sector inspection branch. I'd like to know from you, again, the level of expertise that's required. Do you have to be an engineer to sign off on these reports? Can we rely therefore on the professional standards within that profession to give us some comfort?

Mr Shaw: I'm going to ask one of my colleagues. We're going a little deeper than I am comfortable with.

Mr Steve Klose: I'm Steve Klose, manager of the certificate of approval review section within the environmental assessment and approvals branch. In terms of the sign-off that Mr Shaw was referring to, the engineers' reports that are submitted under the clean water regulation are required to be signed by a professional engineer. If we look a little broader in terms of submissions to the ministry for approvals—I'll focus on approvals—we don't require professional engineers, but clearly we want someone to be able to sign off on the technical quality of the report and the information that is submitted.

Mr Gilchrist: I'll speak only for myself. It's important to know that the ministry has capable, qualified and an adequate number of staff out there as our front line, but I think it's doubly reassuring to know your experience to date. I believe Mr Shaw said he's not aware of a single incident where a company has been found to have been deliberately trying to mislead the ministry. I'm glad to see that partnership has certainly amplified the ability of the ministry to maintain control.

Before I pass it on, I want to put on the record that I am extraordinarily grateful to the Ministry of the Environment for the work you've been doing at the Manson site. I know it's not on the topic before us here today, but I have been told by the ministry that it's the most inspected site in the history of Ontario, and it should be. It was a world-class asbestos disaster area. A report done for the federal government in the early 1980s came to that conclusion. On behalf of the constituents in Scarborough East, I want to thank you and Allison Lee Lai, who's your on-site rep, for the extraordinary work you have been doing and continue to do to give some assurance to the folks in the community.

The Acting Chair: Actually, that would conclude the government members' time at this time. Now we will move to the Liberal Party members.

Mr Bradley: Speaking of information provided, was it not true that the SWARU incinerator had misinformation provided by the operators to the Ministry of the Environment? If that misinformation was provided, what action was taken to ensure that the correct information was provided? There was an allegation that they had doctored the results of their testing on the SWARU incinerator in Hamilton.

Mr Michael Williams: I'm Michael Williams, director of environmental assessment and approvals branch for the ministry. I want to apologize, Madam Chair, because I'm not intimately familiar with the issue that the member is raising. I can tell you that we are conducting at present a focused review of the SWARU certificates of approval and we're currently looking at two certificates of approval to replace the existing one. I want to assure you that the engineers who are looking at that, under the direct supervision of Mr Klose, whom you met a few minutes ago, will ensure that the information provided through any of the test results or other things that come to us will go under very intense scrutiny. I do apologize to the committee. I don't have that level of detailed information here, but I do want to assure you that Mr Klose

and I will go back and ensure that the results that are a part of the engineer's review are accurate and we will be in a position to advise whether or not we will accept those test results.

Mr Bradley: They say there were public allegations of tampering with the results of tests. I was somewhat reassured by Mr Gilchrist's complimenting of the ministry that all was fine, that those who were providing information were providing accurate information. In the case of this incinerator, there are clear allegations that are hard to deny that in fact there was tampering with the information that came forward. I wonder how the Ministry of the Environment is able to determine whether there is tampering, how extensively and how often we take similar samples to what the operator is taking to ensure, in fact, that people are not doctoring the results.

Mr Shaw: My previous comment with regard to the calibre of information that was being submitted by industries was with respect to the industries which are being regulated under the clean water regulations. I'll deal with them first in trying to answer the question.

The MISA facilities are audited approximately once every year. At the time of the audit, the ministry takes a complete set of cycles for comparative purposes. The same type of process is followed when we are looking at, say, municipal water treatment plants. We do a complete set of samples for comparative purposes. When we do our municipal water treatment plants, we also sample at the time we are there, again for comparative purposes.

Mr Bradley: Are those unannounced?

Mr Shaw: In terms of the inspections that are carried out, generally, no. We tried to do unannounced inspections. Particularly with municipal water and treatment plants, we ran into a great deal of difficulty because the operator quite often isn't there; the records aren't available. We also ran into difficulties with the MISA because of the size of these facilities we are dealing with. Quite often they have to make arrangements to get our staff access into places that they normally wouldn't be able to just walk into. We don't give them six months' warning or anything like that. They would be given a few days' warning that we're coming in to do an inspection on such and such a day.

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Mr Bradley: This may be someone else; I noticed that there is a virtual abandonment of inspections of refrigerants and ozone-depleting substances. When you talk to individuals who are involved with those substances, they smile and say they haven't seen an inspector in years who would be dealing with ozone-depleting substances. There are a lot of automobile service centres that I suspect have not seen an inspector from the Ministry of the Environment in a long period of time; either that, or I speak to the wrong ones. Would that be a fair characterization, that that has been—let me put it kindly—de-emphasized by the Ministry of the Environment?

Mr Shaw: The ministry, when it's looking at its overall inspection program—and this is the inspection program across everything it regulates—is doing so with

regard to a number of established priorities. The first and foremost one is with regard to human health; the second one is with regard to impairment of the environment.

We have not abandoned the sector that deals with refrigerants and ozone. It is not one that we carry out a multitude of inspections in. We have been carrying out something in the range of 30 to 40 inspections a year over the last two or three years.

Mr Bradley: So of all the places that are dealing with these substances in Ontario, you had 36 inspections.

Mr Shaw: Between 30 and 40 inspections.

Mr Bradley: There may be 36 sites within an individual community that would be dealing with ozone-depleting substances in an urban municipality, and right across the entire province Ontario you've inspected 36.

Mr Shaw: That's correct.

Mr Bradley: That does give an indication of the level of priority that is placed on that, and it's an interesting conclusion that I'll come to after that.

I'm also interested in the PCB storage inspection. How is the PCB site here at the end of Wellesley Street? Just before you get to the University of Toronto, there is a PCB site. How is that one? I forget the actual municipal address. It's sometimes known as 2 Queen's Park Circle and sometimes as 36 Wellesley, or something. Can you tell us how that site is doing?

Mr Shaw: I do not have that specific information with me. I do know that generally—and I'm sorry, I'm only going to speak for the greater Toronto area, which I'm most familiar with—we find very high levels of compliance when we do inspections of PCB storage facilities. I'm not sure who the actual owner is.

Mr Bradley: I think it would be the Legislative Assembly of Ontario, since it is the basement of this building, isn't it? I think that would be the case. I was just wondering how we're doing on that inspection.

In that regard—and members of the ministry staff would know better than I—in the year 2001 we're in a different circumstance than years gone by as to the technical equipment that would be available to destroy PCBs. At one time, the only thing you seemed to be able to do was store them. Now there is some mobile equipment that can actually deal with them. Has that reduced the number of sites that have to be inspected? Has there been a consolidation and a getting rid of those PCBs?

Mr Shaw: There definitely has been, and I'm informed that the city of Toronto is moving so that by the end of this fiscal year they will have eliminated all city of Toronto PCB storage facilities. There will still be storage facilities within the geographic area of the city of Toronto, but the city of Toronto itself will have eliminated all of its PCB storage facilities, both because there have been technologies that have come on line, as well as concerted efforts.

Mr Bradley: I think my colleague had some questions she wanted to ask.

Ms Caroline Di Cocco (Sarnia-Lambton): Yes. Concerning the toxic hazardous waste site in my riding,

Safety-Kleen, the largest in Canada, both incinerator and landfill, has a SWAT team been sent to that site?

Mr Shaw: The SWAT team hasn't been sent to that site. In selecting our companies of focus as hazardous waste transfer and processing sites, we worked very closely with the district, recognizing that they have a significant role with Safety-Kleen right now. Based on that and dialogues with other district areas, we focused on the processing and transfer stations where we felt we needed a strong presence because of the district role in other processing and transfer facilities.

So we worked in consultation with the districts to identify the split of companies, and SWAT selected from that a suite that we focused on. Safety-Kleen is currently not one of those.

Ms Di Cocco: It's not one of them that is being designated?

Mr Shaw: It hasn't been done by us.

Ms Di Cocco: All right. The other aspect is with regard to the certificate of approval, so I don't know if there's a different person there. The reason I have an acute interest in the whole process is because I was one of the applicants with regard to the review for the certificate of approval for that site, both the incinerator and the landfill.

We were denied, of course—the fact that the review for the certificate of approval was not needed. Because I certainly am not an expert in the area, I did ask the Environmental Commissioner to look at it, and we submitted the information to him. He suggests that the review of our application certainly provided new evidence, with the potential of significant harm to the environment, which was not addressed at the time of the approval; in my view, it is certainly his analysis.

In the context of the process and the risk management approach to updating these certificates of approval, I believe we did send to you a great deal of evidence in that regard, corroborated by the Environmental Commissioner. Could you explain to me, then, what risk management means with regard to a site such as that, where evidence is provided that there are new risks that have been indicated?

Mr Klose: I believe the framework that Mr Stager had introduced was to look at broad sectors and broad areas of the province. Clearly, when we as a ministry or as a branch are involved with a specific file and there is a significant interest, and it was highlighted that the district office has a significant interest, we will work with them to get the best information in front of us and have a look at it and ensure that it is meeting the current conditions on their certificate.

Clearly, out of the submission that had come forward in terms of reviewing the certificates, as you correctly had identified, this is the only site in the province that is like that, so it is easy for us to look at that site and say, "Yes, this is very important." I know that Safety-Kleen has submitted a number of applications. We will continue to work in reviewing all the comments that come in to the ministry that are part of that application, as well as

relying on our experts in our standards development branch as to what the proper standards are, where standards are going in the future and how best to incorporate them into the certificates, the applications or the current certificate that we have in front of us, and find out what we need to implement to ensure that it is achieving proper environmental performance.

Ms Di Cocco: When we submit the review, it comes to your office, I presume; it comes to the central office, does it not?

Mr Klose: Correct.

Ms Di Cocco: In that request for that review, there's a lot of work done to provide the evidence. Is that not in and of itself of value in the request that was made, in requesting a review for the certificate of approval?

Mr Klose: Absolutely, it will be of value. We as a ministry right now, as we get further either amendment applications or working with the district, want to look at the certificate and make sure it offers the best protection, as a modern certificate of approval of the day, for the local community. So it is absolutely valuable information that we will take into account when we make a decision either on amendment applications or working with the district in terms of deciding if the ministry wants to initiate amendments to the certificate to say we would like something different done or greater reporting or to clarify issues; so we've clearly taken that information into account.

1100

Ms Di Cocco: But on the other hand, the response to us as applicants was, "No, there's no review required." So I'm just trying to suggest to you that what you're telling me about other considerations certainly wasn't forthcoming when the application was submitted to you in the year 2000. So the response was more or less, "Everything is fine," and "It's business as usual."

I'm just questioning the process as to what's the risk-management approach in this request for review or updating, unless these are two different things, the terminology of updating or review are two different things.

Mr Klose: Well, we will carry out our review. Let me back up a little bit. I'm aware that they have submitted applications to amend their current certificate, so we will then respond to that and carry out a detailed technical review to ensure they have provided enough information. Then, when we make a decision at the end of that as the signing director on the approval, we'll look to the entire certificate and, working with the district office in terms of having that local knowledge, figure out what's required in its entirety for that certificate to make sure it meets, as I said a little bit earlier, the best rules of the day today, the best practices that we would like to see in that certificate in terms of ensuring the proper management of that facility.

Ms Di Cocco: Maybe I'm not quite understanding, because I'm talking about the review that was already submitted. What I'm trying to suggest to you is that it was absolutely categorically stated that there was no need

to review this, even though the evidence was provided. I'll just leave it at that.

I just want to go to one other point about the certificate of approval aspect. It comes from the response provided by the commissioner on this site and the fact that Safety-Kleen failed to comply with its C of A because the company did not submit a number of results of monitoring programs to the ministry in its annual report, even in 1998 and 1999, as required. So, again, how does that evidence, when it comes to risk management approach to the largest hazardous site in Canada—to me it's contradictory to the words I'm hearing about ensuring, through this risk management approach, that we have a process in place that's working. I'm asking you to explain that, because this site, at least according to the commissioner, did fail to comply with its C of A. So what's the next step, 1998 and 1999? Even though in 2000 we asked for a review, in this case it still is considered that this is fine; they can keep doing business as usual.

Mr Klose: I'll have to apologize; I'm not part of the field delivery component in terms of ensuring compliance.

Ms Di Cocco: I understand. This is the process I'm talking about, because it's indicative of a process.

Mr Klose: What we would do in terms of the environmental assessment and approvals branch is look to our local district office and look for their direction to see if this compliance issue is something that can be addressed by modifying conditions in a certificate to increase the likelihood of ensuring compliance or if it is truly a field component in terms of the district having to either have greater frequency going out to visit or the various tools to ensure compliance with the certificate. So we would work with the district to figure out if it's one or the other or if it's a combination of those things to bring a facility up to full compliance with their certificate.

Ms Di Cocco: What are the consequences to a site that consistently doesn't comply, or let's put it this way, where there are areas where it's quite evident that there's jeopardy to the environment, a jeopardizing of the environment and human health? I'm asking a general question: what consequences are there to an industry or a company that is consistently doing that?

Mr Griffith: If we were to find regular non-compliance, we would then do an investigation, probably refer it to an investigation and do a thorough investigation. Based on the merits of that investigation, if charges were warranted, then charges would be laid.

Ms Di Cocco: That's the limit with which the Ministry of the Environment—

Mr Griffith: Well, we may not necessarily take an automatic enforcement perspective if we can work with the company. Our objective is to get compliance, and we have many ways of doing that. Again, that ranges from working with the company to technical assistance to outreach and, if necessary, as a last resort to go the enforcement route and to do an investigation and, if

proved warranted, to lay charges and then go through the legal system.

Ms Di Cocco: This specific site is all self-monitored, I believe, to a great extent, and therefore, when it comes to investigating or analyses of their documents or their reports, what does the ministry do to analyze or to corroborate the reports?

The Acting Chair: Ms Di Cocco, I'm going to ask if you could just perhaps wind up your question.

Ms Di Cocco: OK. What analysis is done in conjunction to corroborate their own reports?

Mr Griffith: I think the member is aware of the fact that that site is regularly monitored and inspected by ministry staff and a full-time on-site inspector. As part of that process, we would be looking at their results and records.

The Acting Chair: That would conclude the opposition time and the first rotation. At this time, Mr Peters would like to ask a question for clarification, I understand.

Mr Erik Peters: The questions that I will pose are strictly designed to enable the researcher to complete the report and they deal largely with the answers provided in response to the miscellaneous questions on page 18. I invite the researcher, if there is other material to please raise it.

On page 18, there was a question about the co-operative agreements. At the end of the testimony on Hansard the sentence, which is highlighted there, says, "If a company doesn't live up to those provisions"—which is to reduce the overall contamination to the environment by 5%, perhaps 10% a year—"the co-operative agreement ... comes undone and they lose the flexibilities they have gained."

There are a number of answers provided, but what happens to the reduction target? At the moment, the answers deal with procedural aspects of consolidation; for example, on the next page it says, "Consolidation will improve the management of approvals activities.... Consolidation will allow both the facility and ministry to reduce the amount of time administering." So it looks at the consolidation as an administrative process. But for the purpose of finalizing the report, what happens to these overall reduction targets that you're planning once you consolidate an agreement and, as you said at that time, the consolidated agreement becomes undone?

Mr Bob Breeze: My name is Bob Breeze. I'm the associate deputy minister at the Ministry of the Environment. The co-operative agreement is a concept that was talked about in the Managing the Environment report, and over the last number of months the ministry has been in the process of working with several industrial sectors on how they should be structured and how they should roll out.

To answer that question in detail, we're a number of months away from actually getting to the point where we can answer specifically what the sanctions might be, how the sanctions might work, how the sanctions might actually kick in. I should say, though, that the co-oper-

ative agreement is an agreement that is for those industries that have demonstrated over the last three or four years that they are always in compliance. They're a continuous improvement tool. Once a co-operative agreement is eventually rolled out, once we eventually initiate a pilot project, if at any time a company doesn't comply with a standard in a regulation, they would be immediately subject to inspection, investigation and enforcement. In other words, the co-operative agreement offers no protection from non-compliance. They would be inspected, investigated and enforced as any other facility would.

In a nutshell, however, to answer your question specifically, we're a number of months away from actually seeing how we're going to put together the consolidated approvals that we have right now for compliance, how we're going to use that as part of the incentives that are going to be in the co-operative agreements. As I said, we're a number of months away.

1110

Mr Peters: Fair enough. But as a minimum the target will remain in place: the target of the co-operative agreement, of reducing the overall contamination by 5%, perhaps 10%?

Mr Breeze: When I was putting those numbers out, I was putting numbers out that could be in co-operative agreements. What we eventually end up with will be subject to that negotiation, whether it's 1% or a 2% or whatever the continuous improvement target happens to be. The enforceable number is the number that's in the regulation; it's the baseline and it's that against which we enforce.

Mr Peters: I just want to make sure that we have a fair summary for the researcher. So the term used in the testimony, "consolidation," when we write the report—that is still a very fluid situation, as to what the consolidation actually means.

Mr Breeze: We know what the consolidation means, but the question is, how are we actually going to use it and integrate it into the co-operative agreement, that continuous improvement above minimum standards? So how we are going to integrate is the question. We know what it is. It's taking the 30 or 40 certificates of approval that one large facility can have and issuing one certificate of approval around which they would have a measure of flexibility, but they would have to agree to a continuous improvement target within the terms of the co-operative agreement. How that actually will be implemented, we're not close enough yet for me to give you that explicit answer.

Mr Peters: Chair, do I have time for another question?

The Acting Chair: Actually, I'll perhaps consult with members of the committee. We will begin the second rotation now. I have been advised that it is probably appropriate that we would leave some time at the end for perhaps some in camera discussion. It has been suggested that we would continue a second rotation of 10 minutes for each party, so perhaps at the end of that rotation we

can have another conversation and see if you may have some other points to raise.

We will begin with the third party and Ms Martel: 10 minutes.

Ms Martel: I'd like to return to inspections. I want to make sure that I get the right numbers for the right fiscal years, so let me just go back to the number of inspections for 2000-01, which would be ending March 31, 2001. Can you give this committee the complete number of inspections that have been done? Because right now we're sitting with a document that tells us about 4,268, and then we've got a list for SWAT. Just before I finished my last round of questions, you were talking about smog, which is a number we weren't given in the information that was sent to us on October 4. So can you clarify exactly what we're dealing with?

Mr Shaw: The 4,268 number that I believe you quoted is the number for the district offices. The number for SWAT for 2000-01 was 78, so that would be the period from late December 2000, when they became operational. Then the third figure is for the smog patrol, and that number is 4,194. So that gives a total number of approximately 8,500, a little over 8,500.

Ms Martel: Can I ask why, when we asked for information about numbers of inspections, in your reply of October 4, 2000, unless I have read this completely wrong, we have the number of inspections for the district offices and we have the number of inspections for SWAT, but there was no reference at all to smog? I don't think we have it for this year or for any of the other years that we asked for inspections. Am I reading this wrong?

Mr Shaw: The numbers that were provided were exclusive of smog. We were trying to keep apples and apples, because the numbers that the Provincial Auditor had been looking at did not include smog either, so rather than confuse this, we tried to keep to the same sets of numbers.

Ms Martel: That's helpful. Let me then go back to the auditor's report, which is what we are dealing with in terms of us doing a draft report. I'm looking on page 119 of the auditor's report, which is the section that deals with inspections. I am bearing in mind what you just said, that the auditor in that report as well did not talk about smog. So if we want to compare apples to apples, we should bear that in mind.

If I look on the chart on page 119, I'm looking at the number of inspections for 1995-96. It looks to me like there were about 6,800 inspections done in that fiscal year. Would that be correct?

Mr Shaw: The number I have for 1995-96 is approximately 4,500 inspections. I'm sorry. My copy of the auditor's table is incredibly blurry, so I'm having difficulty.

Mr Peters: We can probably provide a copy, if I may make a comment. But this table was cleared with the ministry at that time, so it was agreed by the ministry that there were well over 6,000 inspections at that time.

Mr Shaw: OK, thanks.

Ms Martel: So can we get some agreement that it was about 6,000?

Mr Shaw: That's correct.

Interjection.

Ms Martel: We have a table—it says the source is the Ministry of the Environment—on page 119. In my read of it, it's the bottom line that I am specifically interested in right now, which would show, it seems to me, if I take that line across the top of the graph, about 6,800 inspections in 1995-96. I'm just trying to get some clarification that that is correct.

Mr Shaw: That was the number that was provided to the Provincial Auditor at that time. Of course, smog would not exist at that time and SWAT did not exist at that time.

Ms Martel: Right. Let me go to the most recent year that we just finished dealing with, that Mr Gilchrist was so interested in. You have just told this committee that the district offices have done 4,268 inspections this year and SWAT has done 78, which would bring us to a total of 4,346 inspections for this fiscal year, correct?

Mr Shaw: That's correct.

Ms Martel: So even at this point, even with your addition of smog, in your addition of 21 people on a contract to do all of the water plants, we are still at least—what?—1,500 inspections below where the ministry was in 1995-96. Would that be a correct assessment? In fact, closer to 2,500.

Mr Shaw: I'm sorry. I lost the train of that question. We are looking at the number of inspections in 2000-01 conducted by district staff—

Ms Martel: Right, which you have told me is 4,268.

Mr Shaw: And that were conducted by SWAT, which was 78.

Ms Martel: Then I added the 78, which brings me to 4,346.

Mr Shaw: Roughly 4,300 or 4,400.

Ms Martel: We'll round it up to 4,400.

Now, if I look in 1995-96, my best guess is that it's about 6,800 inspections that were done. That would have included, if I understand you correctly, all of the inspections done by the district offices. It would not have included SWAT, because SWAT wasn't created, and it wouldn't have included smog, but that's OK, because we didn't include smog in the 4,346 that we just referenced.

What I am trying to get from the ministry is confirmation that in fact you did about 6,800 inspections in 1995-96, and the best you did last year was 4,346, which leaves me with a difference of a little over 2,400. You did 2,400 fewer inspections last fiscal year than you did in 1995-96. Is that correct? Am I reading this right?

1120

Mr Shaw: Based on the information in the table and the information we have provided, that is correct. I would like to clarify, though, that SWAT was also only operational from late December through to March, so that's less than a three-and-a-half-month period during that fiscal year.

Ms Martel: Add in what you think would be the total, then, to March 31, 2001, so we're actually comparing apples to apples. Give me your best estimate on what SWAT inspections would have been by that date.

Mr Griffith: May I just make a statement for clarification, or hopefully to clarify?

Ms Martel: Sure. That would be helpful.

Mr Griffith: I'm not guaranteeing total clarification. The chart in the Provincial Auditor's report mentions inspections and investigations. We do about 1,000 investigation a year, so that table may be including—

Mr Andrew Cheung: No, this is ministry-initiated inspections. It doesn't include investigations.

Ms Martel: It says for the staff, "including investigations and enforcement." But for the line that I'm most interested in, it says specifically, "number of ministry-initiated inspections." I'd like to ask about the staff too, but I'll bet we won't have enough time for that.

Mr Shaw: Assuming we are comparing apples and apples—

Ms Martel: Well, it's your table.

Mr Shaw: That's right. The figure we were using for SWAT earlier was that it was expected that in a full year of operation—that's a full complement of staff for a full year—SWAT is expected to conduct approximately 1,000 inspections.

Ms Martel: No, that's not what I'm asking. I'm trying to compare fiscal years, because that's what the graph from the auditor does. So 1995-96 would have taken us to March 31, 1996, correct?

Mr Shaw: Right.

Ms Martel: All right. Give me what the SWAT number is, then, to March 31, 2001.

Mr Shaw: It's 78.

Ms Martel: All right. So—

Mr Shaw: Excuse me. As I pointed out, SWAT only operated during roughly three and a half months of that fiscal year.

Ms Martel: That makes no difference. My point is that even with SWAT, the ministry is doing about 2,500 fewer inspections. Even if you add 1,000—I'll give you the benefit of the doubt that you're going to do 1,000—you're still going to be 1,500 inspections shorter this fiscal year than you were in 1995-96.

Mr Bradley: You're contradicting Mr Gilchrist.

The Acting Chair: That would conclude the third party's time. At this time we will move to the government members.

Mr John Hastings (Etobicoke North): My questions focus more around not the inputs on inspections and investigations; I would like to know what are some of the results of your investigations and inspections, particularly with respect to air quality. We have these charts in front of us with all the investigations, inspections, visits, or whatever definition you want to use. I'd be interested in knowing what are the results of some of the work you're doing in these areas: the number of prosecutions, the number of reprimands, upgrades, however you want to define it, particularly related to air quality.

Mr Wilf Ng: My name is Wilf Ng. I am the director of the investigations and enforcement branch. I want to quote you the number of charges we laid in 1999 and 2000. The number of charges laid in the year 1999 is 1,216. For the year 2000, the total number of charges laid is 1,796. If we look at the total number of convictions, for 1999 the total number of convictions is 611.

Mr Hastings: And for the year 2000?

Mr Ng: For the year 2000, the number is 770.

Mr Hastings: It's 770 for 2000; 611 for 1999.

Mr Ng: That's the total number of convictions.

Mr Hastings: What is the average fine levied or paid?

Mr Ng: The total fines levied in 1999 are \$1.5 million. For the year 2000 that number increased to \$3 million. So we see a 100% increase in fines from 1999. For the first six months of 2001, the total number of fines levied increased by 118% over the same period of time for 2000. So there has been an increasing trend in the number of convictions registered, the number of charges laid, and also the number of fines levied since 1999.

Mr Hastings: If you had to go back and compare air quality convictions, prosecutions, penalties and fines, even though the fines regime would be lower, what would be your conclusion? Is there a trend line upwards?

Mr Ng: It would be difficult to make a direct correlation between air quality and the number of fines and convictions. One would assume that prosecution has a deterrent effect. Also, one would assume that the more charges we lay and the more convictions we have, that would encourage people to come into compliance and, indirectly, that would improve the air quality. But I do not have a direct correlation between the two.

Mr Hastings: OK. Can you tell me whether it's true that the Ministry of the Environment does not have any direct influence or regulatory compliance power over air emissions from the railways, emissions of NO_x and VOCs? It is completely unregulated and even the federal government ignores this area. Is that a generally true statement? If it is, what do we plan to do about it? If it isn't, what are the results of where we've gotten to?

Mr Doug Barnes: I'm Doug Barnes, the assistant deputy minister of the integrated environmental planning division. Currently we are going through a process of putting in place regulatory structures. But I would like to say this: first of all, on the major sources of both nitrogen oxide and sulphur dioxide from industry, we have had agreements in place for a number of years for Ontario Power Generation, Inco and Falconbridge. All of those have reduced the amount of those emissions from those sectors over that period of time.

Mr Hastings: But not the railways, because they're federally regulated.

Mr Barnes: That's correct.

Mr Hastings: So is it true to say that there is no emissions regime in place from Environment Canada, since we can't regulate it?

Mr Barnes: The only regulation that would affect those emissions from trains would be the actual standards which are approved federally for the engines that are in

those facilities, and the components of fuel that are used in those particular vehicles.

Mr Hastings: Is it a major concern to you that there are such huge emissions coming from that source?

Mr Barnes: They are part of our overall transportation sector. Transportation, in terms of rail and others, is a large source of emissions. They are parts that we're trying to get to in Ontario with the controls we have. I can't speak for where the federal government is on this.

Mr Hastings: With regard to the runoff of hazardous substances from airports, which is also a federal area and I think has now been turned over to these inaccessible bodies pretty well, what progress are we making in that particular area?

I cite a specific case of nine years ago, where the Toronto international airport, then under the control of Transport Canada, emitted a considerable volume of glycol into the Etobicoke Creek. To this day, as far as I know—and I've checked recently—they have never paid their fine under the Etobicoke bylaw; now the city of Toronto bylaw, so I assume the same. They do have some better storage facilities for glycol runoff and other stuff they use at airports, but I would imagine that's not the case at the more regional airports like, say, Thunder Bay, Sudbury, Hamilton, any of those places, because they are also regulated by their own separate airport authority now; it's not Transport Canada. Does that complicate the situation too?

1130

Mr Ng: Well, it is getting a little bit into the grey area, but let me offer some comments to put some context around this issue. We're looking at two scenarios here. One is a regulation of the operation of the facilities, and clearly that is a federal jurisdiction. But we are also talking about causing adverse impact to the receiving stream. So if the airport does have a runoff which would cause adverse impact to the receiving stream, then the province would have the jurisdiction to go in and lay charges.

Mr Hastings: For the municipality? Because in some instances municipalities have bylaws to deal with these source runoffs.

Mr Ng: If it goes into the municipal sewer, then that would be under the jurisdiction of the municipalities.

Mr Hastings: All right. I guess my final question relates to technology planning.

The Acting Chair: You have one minute, Mr Hastings.

Mr Hastings: How far along are we in terms of electronic registration of certificates of approval?

Mr Ng: Well, actually, the staff are able to produce the certificate of approval from the electronic system now. The ministry embarked on a technology project two years ago. Phase 1 includes a system to provide staff to work out their certificate of approval on the system. So right now staff would be able to generate the certificate of approval from the system.

Mr Hastings: For all types? Air—

Mr Ng: Yes. I would also add that last year, in order to address the need for drinking water regulations, we developed a trans-sectional Web site by which the municipalities can submit their engineering report in an electronic form to the ministry for review.

The Acting Chair: That would conclude the government time. I will now go to the opposition.

Mr Bradley: I am going to dedicate five minutes of my time to Ms Martel so she can continue to pursue the questions she had when she was cut off by time.

Ms Martel: Thanks. I'd like to return to my previous line of questions. I'm wanting to get an answer as to whether or not my read of this information is correct. I see the staff are back. Maybe you'd like to try another stab at it.

Mr Shaw: OK. The information that I have with me at this point in time would indicate that in 1995-96, we actually completed 4,474 inspections. Now, I appreciate that the table in the auditor's report shows approximately 6,800. I would have to go back to determine the derivation of the 6,800 number. I know that it was provided by the ministry to the auditor, but I cannot recall what is in that number at this point in time.

Ms Martel: Are you trying to tell us that the 6,800, as provided in this graph, which says "Source: Ministry of the Environment data," is not correct?

Mr Shaw: No, I'm simply not sure why I have two numbers at this point, and I would need to go back and determine that.

Ms Martel: So you can't confirm where the 6,800 comes from on this chart?

Mr Shaw: Not at this point. My apologies. I cannot.

Ms Martel: When can we expect this information? To be quite honest with you, it's been a long and difficult process to even get to this point in dealing with your ministry on this issue, and I think I speak for all committee members when I say that. This is the second round of questions. The reason we had you before us again is because we didn't feel we got enough answers. And now you've come before us and told us that you can't corroborate for this committee information which appears in the auditor's document. I find that unbelievable. I'm sorry, Deputy, but I do.

Ms Jan Rush: First of all, I do apologize. It was certainly not our intent to do anything but answer fully all of the questions today. I do believe the title of this chart gives us some indication of inspections and investigations and enforcement and that the answer lies somewhere in that definition. We will endeavour to get that information to you as soon as possible, and I do apologize.

Ms Martel: Let me make it clear about the questions that I'm asking. Sorry. OK, you comment.

Mr Peters: No, that's fine. I have a comment to make on that.

Ms Martel: I want the specific number of inspections that should relate to this chart that we were provided with as part of the auditor's report. I want to know the exact number of inspections that were done in 1995-96 so we

can get an exact comparison to the information you gave us this morning.

Secondly, because this affects not only this year—my read of this is you're about 2,400 inspections shorter this year than you were in 1995-96. The second dilemma that flows from that is that it's not just this fiscal year we're talking about; you also provided the committee, because we asked for it, the number of inspections planned for the next three years. On this document—and I'm looking at pages 5 and 6 specifically of the October 4 information—you gave us a total for the next three years—granted, this is an estimate—of 3,944 inspections to be completed by the ministry. I gather that's just district-led inspections. So I will assume—and you will correct me—that 1,000 more SWAT inspections should be added to that number on an annual basis.

If that is the case, that takes us up to about 4,944 inspections in total planned by the ministry for the next three years, which would still fall far short of the 1995-96 number of inspections. In fact, it would be about 1,856 fewer inspections planned over the next three years by the ministry than what the ministry was undertaking in 1995-96. Those are the questions that I hope you can get some answers to.

Mr Bradley: To follow on the question of inspections, with more ministry-initiated inspections required now for a variety of circumstances, how is that impacting on your district offices' and area offices' ability to respond to the public through the complaints they have and to conduct inspections as a result of public complaints?

Mr Shaw: We strive to achieve approximately 20% of our district environmental officers' time in preplanned inspections. It is recognized that, depending upon the nature of the incident—what we used to call a "complaint" we now call a "pollution incident"—that will take precedence. So when you have major incidents occur, it is not abnormal for that district office to have to do shifting in its resources to make sure that we can address the incident. Dealing with incidents coming from the public remains as the priority, assuming that the incidents are also of a priority nature. In other words, they are something which is in our high-priority list of things to be dealt with and not a minor matter that is being addressed. Overall, there has not really been an impact on the ability of staff to try to deal with incidents over the last three or four years.

Mr Griffith: That is one of the reasons that, when we do our work plan, we have preplanned inspections. That's what we hope to actually—the results over the time period. If our abatement response business increases, then there would be shifts in our preplanned inspection activity. We can't predict that in the future. That's why preplanned inspections by the districts can waver from year to year, depending on what else is happening and the work that the inspectors and the abatement officers have to do.

Mr Bradley: How will the anticipated constraints that will be applied to you in-year or next year affect your

ability to carry out an additional number of inspections compared to what you are carrying out this year? Since the Treasurer has indicated that we are in tough times, one can anticipate they've already warned your ministry of a potential in-year constraint and/or potential reduction next year in your resources.

1140

Ms Rush: Mr Bradley, that's a hypothetical question at this point.

Mr Bradley: It may be hypothetical at this point. To say it's hypothetical is not a very satisfactory answer, I might say, because you have to anticipate if you're going to have a constraint. What I'm trying to determine is what that is going to do to your inspections. I'll be back here in six months when they've applied the constraint to you and find out, I guess.

I'm asking you now what action you're taking—what anticipation you have in mind—if there is a constraint applied, because there's going to be one applied. You're going to tell me it's a hypothetical question.

Ms Rush: That is a matter for the business planning process and for government determination.

The Acting Chair: You've one minute left, Mr Bradley.

Mr Bradley: I'll be back for that one.

The 3Rs facilities: I see the annual number of inspections is 23. There's a great concern out there that somehow a lot of material that is supposed to be dealt with through the 3Rs program is in fact heading to garbage dumps. Why would your number of inspections be only 23 when a great concern has been expressed that substances are being diverted to garbage dumps instead of appropriately dealt with by 3Rs facilities?

Mr Stager: We have conducted inspections, both through the districts and through the environmental SWAT team. The environmental SWAT team has actually recognized, particularly within the industrial, commercial and institutional sector, the whole area of recycling and the need to focus on ensuring that they meet compliance.

We've actually done a fairly recent sweep of multi-unit apartment buildings at various locations in Ontario. I'm looking at the total number. We did just over 100 inspections of multi-unit apartment buildings.

In conjunction with this, we also did a fairly extensive communications program with municipalities. For example, we worked very closely with the city of Toronto in getting the message out to the apartments that a SWAT team was conducting inspections and we were looking for the fact that they, first of all, had a recycling program, that they supplied source recycling and they provided education to tenants. We provided that through the city, and a major newsletter went out to the apartment complexes to let them know it was happening. My response from the city was that there was an overwhelming response from the apartment complexes looking for recycling bids, looking for more information on recycling.

We've also identified that it will be an ongoing need, and certainly within the environmental SWAT team we will continue to conduct spot inspections within the industrial, commercial and institutional sectors.

The Acting Chair: That would conclude your time. The auditor has indicated that he would appreciate an opportunity to seek some clarification from Mr Shaw.

Mr Peters: I just wanted to put on the record that the chart we are discussing on page 119 does agree completely with the numbers that you have provided on page 10; in other words, the number of inspections we used—4,798—which is the number shown on that chart. We used 3,827, so I just wanted to put that on the table, because if there is a question whether other features were included in the previous years, that will be important for the committee to note.

Also, I note that on page 13 of today's submission you indicate that the number of funded staff conducting inspections declined by about 37 between fiscal 1996-97 and 1997-98, and it would be in this connection worthwhile for the committee, in completing its report, to know what the number of staff was back one more year to 1996 and the total staff. So if you could support the chart with the numbers that you have provided to us. Thank you.

Mr Shaw: I believe that the number of staff involved in conducting inspections, 1995-96, would be 211.

Mr Peters: It would still be 211? There's no change between—

Mr Shaw: The decrease then occurred in 1996-97. That's when we lost the 37 staff members who were in the district offices and would have spent part of their time involved in inspections.

Mr Peters: Right. So you're leaving us with the impression that there may be a different way of accumulating the inspections for the years 1996-97 and 1995-96, because your numbers seem to differ. What we're finding is that we are in agreement for 1997-98, 1998-99 and 1999-2000. That chart agrees with page 10. It's before that something happened in your statistics gathering?

Mr Shaw: The short answer is that, I don't know what happened, and we are going to have to go back and re-examine that piece of information.

The Acting Chair: We have 15 minutes at this time. Did we want another rotation?

Some concern has been raised by Mr Peters, as well, about the timing of the material that arrived here with members of the committee and whether the committee wanted to discuss or consider more clarification. They've not really had an opportunity. It was indicated they were going to get the information prior to the public accounts meeting, and perhaps there would be a need for an opportunity for them to seek clarification on some of the information that's been presented. Unfortunately, it was late. We've had some discussion already about some inconsistency or at least some lack of understanding of how information is reported and what is perceived by members of the committee. Would members of the com-

mittee have a comment at this time about what you want to do? It's your committee.

Mr Bart Maves (Niagara Falls): Divide the remaining time. Five, five, five.

The Acting Chair: It has been suggested that there would be five minutes. Do the other members have an opinion?

Ms Martel: I agree.

The Acting Chair: Agreed. Very well, we will do that. Mr Peters also has an additional comment to make, but we will begin with the third party.

Ms Martel: Let me follow up from where Mr Peters just finished, which was that it appears that on page 10 of the document you've provided us this morning, all of the other figures corroborate the chart on page 119, which is in the auditor's report. So I find it even more difficult right now to understand how that one single fiscal year that I happened to stumble on—1995-96—could not also be correct. If the rest of the information in the chart, as it appears, is correct, how is it that the ministry is now calling into question or questioning the figure of 6,800 inspections for 1995-96?

Mr Shaw: We're not questioning whether the number is accurate. The problem is that I have two numbers, and in order to ensure that we understand the 6,800 number we need to go back and check information that I do not currently have with me.

Ms Martel: Can you just tell us why you're calling into question the 6,800? Because you have a different number with you to suggest a different number of inspections in that year?

Mr Shaw: I have an incomplete understanding at this point of time of the 6,800 number, and I wish to go back and make sure that we understand that number fully.

Ms Martel: Can I ask, then, in terms of who prepared this document for us, which corroborates the rest of the information, is that individual here and could that individual possibly tell us what his or her understanding is of the years previous?

Mr Shaw: The short answer is no, that person is not here.

1150

Ms Martel: All right. You're going to go away and get us some information, and I trust that's going to be as soon as possible. I want to just be clear that you understand the significance for the out years. I'm questioning this fiscal year because on the face of it, from my look at the chart and the information you've provided, the ministry would be about 2,500 inspections short, this year, from 1995-96.

As serious a consideration is that you also provided us with your projected inspections for the next three years in a document on October 4, which we all have. Your projected inspections appear to be about 3,944. This is on page 6 of the October 4 document. I would assume that is district-led inspections. If I give you the benefit of the doubt and add 1,000 SWAT inspections on top of that—and I'll give you that benefit of the doubt—that will take

us up to 4,944 inspections that the ministry itself has said it estimates it will do over the next three years.

My concern is this: if the 6,800 number is correct, in the next three years you will still do 1,500 fewer inspections, and I think that's a significant problem, especially given what happened in Walkerton. I think it's a more specific problem, because you've already told this committee that 25 of the people who are doing inspections for you right now are 25 people whose contract ends in 2003. So I would think there's a likelihood of fewer, not more, inspections after 2003 if those people are on contract and if you can't get money to extend that contract. That is my concern. The auditor was very critical, frankly, in his report of the decline in inspections, and it doesn't seem to me that we are anywhere back to the 1995-96 numbers, not now and not in a projection for the next three years.

Perhaps one other thing is to give us a confirmation of the numbers, because the other thing I noticed on this chart was the listing of the MOE staff. This is page 119.

The Acting Chair: Could you please complete your question quickly?

Ms Martel: Who has staff of over 730 that are listed? I'm going to assume that's not all staff that were dedicated to inspections, but it would be most useful if you could give us a clarification of what that staff complement refers to on page 119 and how it relates back to the information you gave us today with respect to the number of funded EO positions in district and area offices.

The Acting Chair: That would conclude your time. I'm sure the staff from the ministry will get that information, along with the other information that you've indicated you can provide to members of the committee. At this time, government members.

Mr Maves: You also gave to us today this risk management framework. My understanding is—and we've had this discussion around the table in the past. Your risk management approach basically says that in the past the ministry has done inspections of all kinds of workplaces. In many cases you were inspecting year after year companies, for instance, that were in full compliance. So you may have done more inspections—it remains to be seen—but you were often doing inspections of people who year after year were in compliance. So the risk management approach, which document is before me, for the inspection, investigation and enforcement, says, "We're not going to do some inspections of some of these companies that are constantly in compliance. We're not going to concentrate on them. Instead, we're coming up with a risk management model that says we're going to focus on bad actors or industries where there's likely to be non-compliance." Is that an accurate description of your new risk management approach?

Mr Stager: I think it's certainly an important part of the way we do business. I think to some extent the ministry has looked at risk elements in the way that we conduct our business, particularly in compliance of inspection work in the past. What we're moving toward now is a much more focused and formal approach to risk

assessment. If I can use the SWAT example in the way that we're using risk as a tool for the division, what we want to do is to focus on the areas where we feel there will be the most significant risk, both from a human health perspective and an environmental perspective.

Mr Maves: Since 1995-96, you've tightened some of the air quality standards, for instance, so that both good and bad actors now have to comply with stricter standards. Is that true?

Mr Stager: Yes, that's true.

Mr Maves: If your risk management identification approach is good and is working, because you're concentrating on people whom you're identifying as being a high risk, you should find that you're finding non-compliance, you're fining people and you're going for convictions. You should find that increasing over at least the first few years that you have this approach, if your approach is working. Is that correct?

Mr Stager: I think that's correct, yes.

Mr Maves: And is that the case?

Mr Stager: I can speak again from the SWAT perspective, that what we're doing is focusing on sectors and companies based on the element of risk within the company. We feel very strongly that the focus in the inspection that we do will have a significant change in levels of compliance, again, because we focus on specific companies within specific sectors, not only from an inspection and enforcement perspective but also from a communications and outreach perspective, letting them know what's wrong and working with them behind the scenes to make sure that they are moving proactively toward compliance. So the physical inspection part of it is one of the tools that we use, but it is one of the tools. At least as important is to make sure that they understand what's wrong and that they are working proactively to ensure compliance within their sector or within their company. Obviously the risk assessment in the picking of those companies is an important part of the work we do.

It also then follows that, with your inspection of these bad actors and if you're successfully spotting the right ones, there's going to be non-compliance. You're going to fine them; you're going to press for convictions. Over time, as Ontario companies and facilities find that out, you should find that actually peaking and then decreasing. Because of the tougher standards and enforcement measures, they'll all more likely come into compliance.

Mr Stager: I think that speaks to the whole role of compliance and enforcement, and I think that's exactly what we're trying to do, using those kinds of tools to really up the level of compliance overall—no question about it.

The Acting Chair: That would conclude the government members' time. We now move to the opposition.

Mr Bradley: My question deals with your inspections of water treatment facilities and sewage treatment facilities by municipalities and the action that you're taking against municipalities that are not proceeding to meet your requirements, in other words, that have failed the inspections. It is said by these municipalities that they do

not have the money to carry out the necessary works because they can't get enough money or can't get any money out of the OSTAR program or SuperBuild to assist them in meeting new and more extensive obligations. What action are you taking when these municipalities do not comply?

Mr Shaw: I'd like to break this into two pieces, if I may. In terms of finding non-compliance issues when we are carrying out our inspections—and these are things such as finding out that a municipality has failed to take the appropriate number of samples or determining that they aren't maintaining the right level of chlorine residuals in their systems or their operators are not licensed—when we are finding situations like that, provincial officers' orders are being issued to the municipalities and the matters are referred to IEB for consideration for investigation, particularly when we find that this is a repeat pattern.

When we find cases where we are not meeting the provincial water quality standards and in fact the treatment system does not meet the minimum treatment requirements of the new Ontario drinking water regulation, we are not pursuing orders against these companies at this point in time, as the regulation provides, until December 31, 2002, for them to come into compliance with those requirements.

Mr Bradley: There are some municipalities that have complained—I think Hamilton is one, but I could be wrong on that—that they cannot get approvals from your ministry for the work that has to be undertaken. Therefore, they will be out of compliance because they cannot get the ministry staff to undertake an inspection and an approval. What are you doing to solve that problem?

Mr Williams: With respect to the issue about Hamilton, we are actually having a meeting concurrently this morning with people in Hamilton who are meeting with my engineering staff to sort out the very issues around their application and their engineering report. I'm hopeful that by the time we return to the office, we will certainly have a solution for Hamilton.

With respect to all of the other municipalities, I can tell the committee that we have 460-odd engineering reports returned to the municipalities for their purview and comment now. We will complete the rest of them over the next seven weeks. There are approximately 680 yet to go out and they will be done by the end of the year.

Mr Bradley: Having spotted the problem that particularly smaller and less affluent municipalities have encountered in making significant structural changes to their water treatment system and perhaps their sewage treatment system, are you making representations to Management Board of Cabinet to change the rules for programs such as OSTAR and SuperBuild, number one, and number two, to accelerate the application process so that the money is in the hands of those municipalities?

Ms Rush: Anything before a cabinet committee, sir, would be confidential at this point.

The Acting Chair: One more minute, Mr Bradley.

Mr Bradley: I'm having a hard time getting answers. I've had one answer declared that it was hypothetical and another that it was something confidential. I must say the attitude I'm encountering as a member of this committee from the Ministry of the Environment is not satisfactory. I intend to indicate to the minister that I'm not satisfied with the answers. I have no further questions to ask, since I'm not going to get answers.

The Acting Chair: It is now 12 o'clock and it is the time that we regularly close this meeting. I would like to thank the members of the Ministry of the Environment staff who have been with us today.

This meeting will be adjourned until the next regularly scheduled public accounts meeting.

The committee adjourned at 1202.

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Mr Ray McLellan, research officer,
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Second Session, 37th Parliament

**Assemblée législative
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Deuxième session, 37^e législature

Official Report of Debates (Hansard)

Thursday 22 November 2001

Journal des débats (Hansard)

Jeudi 22 novembre 2001

**Standing committee on
public accounts**

**Comité permanent des
comptes publics**

**Ethics and Transparency
in Public Matters Act, 2001**

**Loi de 2001 sur l'éthique
et la transparence des questions
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PUBLIC ACCOUNTSCOMITÉ PERMANENT DES
COMPTES PUBLICS

Thursday 22 November 2001

Jeudi 22 novembre 2001

*The committee met at 1006 in room 151.*ETHICS AND TRANSPARENCY
IN PUBLIC MATTERS ACT, 2001
LOI DE 2001 SUR L'ÉTHIQUE
ET LA TRANSPARENCE DES QUESTIONS
D'INTÉRÊT PUBLIC

Consideration of Bill 95, An Act to require open meetings and more stringent conflict rules for provincial and municipal boards, commissions and other public bodies / Projet de loi 95, Loi exigeant des réunions publiques et des règles plus strictes de règlement de conflit pour les commissions et conseils provinciaux et municipaux ainsi que les autres organismes publics.

The Chair (Mr John Gerretsen): I'd like to call to order the meeting of the standing committee on public accounts to deal with Bill 95, An Act to require open meetings and more stringent conflict rules for provincial and municipal boards, commissions and other public bodies.

Maybe I could just verbally report that we had a sub-committee meeting earlier this week, at which time it was decided that all those organizations and individuals who wanted to make presentations would be heard. Since then, one or two of the organizations have withdrawn their request to be heard. We decided to limit each delegation to about 10 minutes. We have a little bit of extra time this morning, because the last delegation is here at 11:20. So I seek your indulgence to allow a leeway of maybe one or two minutes per delegation in the event they want to use it.

We will start off with an opening statement by the sponsor of the bill, Ms Caroline Di Cocco, MPP for Sarnia-Lambton.

Ms Caroline Di Cocco (Sarnia-Lambton): This bill has evolved, from my perspective, from my own experiences from 1991 until, actually, the reason I'm here as an MPP. In our area, it was found that in a number of cases a number of decisions that were made by public bodies, the school board as well as the municipal council specific to the area, were found by a judicial inquiry report that came out of the issue in 1998—the quest of which I spearheaded, by the way, because I found that the public in those instances didn't have the scrutiny or wasn't allowed to scrutinize the decision-making. As a matter of fact, they were not apprised of the decision-making or the

decision-making process. Because of that, I learned, over the seven years, that there were no real penalties for holding in camera meetings when in fact those in camera meetings, as found by that inquiry, were being held inappropriately. That's a bit of history of why I sponsored the bill.

The report by Justice Killeen in those instances indicated numerous times the cloak of secrecy with which the decisions were made. Because of that cloak of secrecy, the public interest was not served. According to his report, about \$6 million of taxpayers' dollars were expended inappropriately and conflict of interest was rampant in all the decisions—again, it had to do with property matters etc. Nonetheless, the report is the reason that I evolved the bill specifically. In my research I also noticed just lately that there are some issues in Hamilton that I have been apprised of regarding council and meetings, etc, that are held in camera, and it is believed they should not be held in camera.

I looked at other jurisdictions and found that in Michigan, since 1976, they have had an Open Meetings Act. That Open Meetings Act requires that people who serve on public bodies or city councils must conduct their business in the open, except under the specific criteria that we already understand are required for in camera. The difference between their act and ours is that they have provide for a penalty. None of our acts that require open meetings have penalties for contravening these provisions. So there's no incentive, if you want, to ensure that meetings are conducted in the open.

The other aspect of my bill deals with conflict of interest. There's a penalty of up to \$1,000 for members on these bodies if they're found guilty of having conflicts of interest, the same fine imposed if they hold meetings in camera. This isn't because I'm making an assumption that people conduct meetings inappropriately. It is because it serves the public interest. I think public scrutiny is the check and balance to ensure good decision-making. That is my view.

I have a letter from the Southwestern Ontario Pediatric Parents Organization. This group of parent's comments are another relevant reason the public requires this kind of bill. I think it's better government, it's better decision-making. This is what they say:

"We support this bill because our organization was founded as a result of closed-door meetings that took place at the London Health Sciences Centre during a

'sizing and scoping' process. This process was mandated from the health ministry. Closed-door meetings took place between the LHSC administration, LHSC board members and the health ministry. Public input was not solicited. As a result, 18 proposed cuts were announced and these cuts will have dire effects on the population of southwestern Ontario." They go on to say, "The loss of pediatric heart surgery will create a domino effect with many pediatric specialized services."

I think more important is: "If there had been more consultation with the public, including patients, their families and front-line medical staff, perhaps the more controversial cuts could have been avoided and our organization would never have been formed."

"We would like the decision-makers to understand the concerns of the public. If legislation such as Bill 95 had been in existence prior to the recommendations of the 'sizing and scoping' exercise, a more effective checks and balance system may have been in place before a public announcement."

There are too many cases where I believe the public is consistently frustrated at decisions that are made. As you know, hospital boards, for instance, are boards that do not come under any statutory requirement that they conduct their business in public. When you think of the budgetary consequences, it's a huge, huge amount of money that they expend. So it is my view that the business of public bodies that are expending public dollars and that make decisions that affect the public interest should be conducted in public debate.

There are a couple of instances where my bill caught—and I'd like to bring amendments forward when the occasion arises. It has to do particularly with the agricultural industry. It got caught in that web, if you want, in that net. I gave sort of the concept of what I wanted to legislative counsel, and then legislative counsel put my concept into legalese. In deciding what constitutes "public bodies," they caught the agricultural marketing boards. It came to my attention—and I am certainly very open to suggestions; that's what the public process is about—that the main object of the marketing boards is to set prices, and of course most of the people who sit on those marketing boards happen to be farmers. They would benefit or lose, however you want to put it, from the decisions of that board. So by the nature of their makeup they should not be in my bill, and that is something I will certainly remove, because I believe it is not correct.

I know there are going to be some bodies that feel they shouldn't be under this bill, and I look forward to hearing their submissions. I believe some of them will be coming forward. I hope this committee understands that there may be a couple of bodies, such as the agricultural marketing boards, that should not have been caught inadvertently in this net of public bodies.

I want to thank the committee for allowing this to come to public hearings, so that we can hear from organizations on this topic.

MINISTRY OF MUNICIPAL AFFAIRS AND HOUSING

The Chair: Next we have the Ministry of Municipal Affairs and Housing and Mr Morley Kells. The way I understand it, you're not here as a committee member, but you wanted to make a presentation to the committee.

Mr Morley Kells (Etobicoke-Lakeshore): That's my understanding.

The Chair: Go ahead.

Mr Kells: Before I begin, I would like to commend the member for her bill. Obviously it's a very personal thing in many ways because of the experiences you've been through in your home city.

I'm a great believer in the private member's bill process. It allows members like you and myself to express ourselves on issues that concern us in many ways, and in fact we try to address these things to protect the public. I think that's admirable, and that's what we're here for. However—there's always a "however" to these things—sometimes they don't unfold as perfectly as they might. I think we have a situation here, and my job today is to address some of the concerns we have in that regard.

I think everybody here knows what the bill set out to do. The ministry has looked at it from that point of view, and these are the kinds of concerns we have.

What the bill proposes to do is important. As you may appreciate, in any democratic system of government, being accountable in the decision-making process is part of that democratic process, and that is why it's already being done in Ontario through existing legislation. Much of what is in Bill 95 parallels, and at points conflicts with, what is in the Municipal Act in regard to open meetings and what is in the Municipal Conflict of Interest Act in regard to conflicts of interest. If those responsible for this bill—I think you referred to your legislative counsel help—took the appropriate time to read the existing legislation on these matters, they would clearly have seen that this bill has a number of problems.

I think you referred to a case of being caught in the web. I think it's an appropriate comment. For example, as you have mentioned, agricultural marketing boards have expressed concern over the onerous requirements of making meetings open to the public. Specifically, the bill's requirements present significant administrative challenge for the operation of marketing board meetings. I understand the honourable member has given consideration to these concerns and has provided exemption to these agricultural marketing boards. If the honourable member recognizes, and I think she does, the administrative challenges to the marketing boards, would she not consider that the same onerous requirements could be or would be placed on similar bodies?

1020

One of the more serious problems I see is that section 13 of Bill 95 states that if there is a conflict between what's in Bill 95 and what's in existing legislation, the stricter of the two would prevail, which she may appreciate has far-reaching impacts. At times, it's not going to

be a clear-cut case which provision is stricter. If the matter were to be pursued, the ultimate decision could very well have to come through the courts. We all know this could use up valuable court resources, be expensive and possibly a time-consuming exercise, and I hope not frivolous at times.

What the drafters of this bill might better have done is amend existing legislation on this topic, but they didn't, and what is left is conflicting rules with vague resolutions on how to overcome the problems.

Let me say a few words on open meetings. Under section 55 of the Municipal Act, open-meeting provisions affect municipal councils, advisory boards and boards found in the Municipal Affairs Act, but these rules, for instance, do not apply to municipal police services boards or school boards. The provisions of Bill 95 would include the boards exempted from Municipal Act provisions. These boards are not included in section 55 of the Municipal Act because they have their own rules regarding open meetings and conflict of interest. Obviously, there is no need for duplication in that regard.

With respect to notice provisions in the bill, the bill requires that adequate notification of the meetings be made to the public. The bill, however, does not mention how the meeting or its subsequent minutes are to be made public. Should they be published, put on the Internet, mailed and, if so, how widely? Or is it enough that the minutes are not secret and let's leave it at that?

The bill also fails to differentiate between what is public and what is accessible. Is it sufficient, in this bill, that the door be kept open, or does there need to be public seating? And how much seating should there be?

Perhaps the intent of the bill is to be vague enough as to provide some flexibility for each body to establish its own rules, but it only hints as to what's acceptable. Such vagueness appears entirely arbitrary and will only serve to create unequal practices by failing to establish minimum standards or best practices.

We all know it's necessary to close meetings at times. This legislation would lead to boards and councils second-guessing their decisions.

I turn, if I may, to the current Municipal Act, and I point out that what I'm going to read into the record here under the old Municipal Act is being transferred into the new Municipal Act. We're currently reading from the Municipal Act, subsection 55(5), which says this—this is the reason for closing meetings, of course:

“the security of the property of the municipality or local board” that's being discussed.

“personal matters about an identifiable individual, including municipal or local board employees;

“a proposed or pending acquisition of land for municipal or local board purposes;

“labour relations or employee negotiations;

“litigation or potential litigation, including matters before administrative tribunals, affecting the municipality or local board;

“the receiving of advice that is subject to solicitor-client privilege, including communications necessary for that purpose;

“a matter in respect of which a council, board, committee or other body has authorized a meeting to be closed under another act.”

“A meeting shall be closed to the public if the subject matter relates to the consideration of a request under the Municipal Freedom of Information and Protection of Privacy Act if the council, board, commission or other body is designated as head of the institution for the purposes of that act.” Then we skip a couple here.

Finally, “if the vote is for a procedural matter or for giving directions or instructions to officers, employees or agents of the municipality or a local board or persons retained by or under contract with the municipality or local board.”

I suspect that would have caught what took place in Sarnia. I guess that's why you had to have a judge's report on what took place.

What we would like to point out is that currently there are checks in place. If any person believes a council has contravened the open-meeting provisions of the new Municipal Act, then he or she can make an application to the courts to review the actions of the council to determine whether a contravention has occurred. If the courts make a determination that a contravention has occurred, it could take actions necessary to penalize the council, including overturning any bylaw that may have resulted.

The government believes that this enforcement mechanism is more in keeping with the overall intent of the legislation in that it is the actions of the council collectively, and not the actions of the individual members of council, that should be subject to review.

With respect to penalties, there is a provision in this bill that would fine individual members up to \$1,000—I didn't quite get the amount. We have \$1,000 here, but did I hear you say a larger amount than that?

Ms Di Cocco: No, \$1,000.

Mr Richard Patten (Ottawa Centre): That's Canadian.

Ms Di Cocco: Michigan is worse; they go to jail.

Mr Kells: We won't fine in American dollars.

Anyway, that's for closing a meeting that this bill says should be open. This could lead to councils opening portions of meetings that should in fact be closed, out of fear of being fined. I don't know how big a \$1,000 fine is in relation to fear, but for some it might be quite a bit.

If individual fines are a reality, they could have the effect of discouraging people from serving on council for fear that a meeting they agreed to participate in, in good faith, might at a future debate be deemed illegal, subjecting the member to both fines and legal costs. I suspect the legal costs would be greater than the fine.

As for Bill 95's treatment of conflict of interest, I must first note that the bill duplicates the provisions, and at times even the wording, of the Municipal Conflict of Interest Act.

Secondly, this bill does not define what a conflict of interest is. Exemptions are listed, but they are not as comprehensive as what currently exists.

Mr Gilles Bisson (Timmins-James Bay): So are you bringing in an amendment?

Mr Kells: Bear with me.

This bill also sets a \$1,000 fine for not declaring a conflict of interest, but no process is established for how an individual is charged, which court may try the matter, and how an appeal would work. Existing legislation, on the other hand, is very specific on these matters. If I may, I would like to quote from a letter to the honourable member from AMO dated October 9, 2001. There are a couple of paragraphs that are certainly pertinent to what we are discussing today. The letter comes from Ann Mulvale, president of AMO.

Mr Bisson: Excuse me, Chair, are we going to have enough time to hear the deputants?

The Chair: Yes. Mr Kells has one more minute left. We will be hearing from the deputants.

Mr Kells: I only have about one minutes' worth of reading here, if I may.

Mr Bisson: I know we have people here.

Mr Bart Maves (Niagara Falls): He is on the agenda.

Mr Bisson: Oh, he is? My humble apologies.

The Chair: Go ahead, Mr Kells.

Mr Kells: I hope they're not cutting into my time.

The Chair: No, you'll get your full minute.

Mr Kells: Thank you. I'll just use this paragraph from Ms Mulvale's letter.

"There are also some technical concerns with the bill. For example, there is no substantive guidance on what is a 'personal interest,' which could lead to debate of what is a personal interest versus a perception of bias. In fact, the bill's description of when a public meeting can be closed could be open to significant debate because it lacks clarity. The bill is also vague on the basis on which the Attorney General would act where there is a complaint around compliance with rules. As well, the provision concerning conflicting legislation and which statute would take precedence will generate confusion and debate in the municipal sector, resulting no doubt in the courts making determinations. Given the plethora of legislation affecting municipal government, this provision could become very unwieldy. The bill as constructed will generate duplication."

Finally, "As you know, the Minister of Municipal Affairs and Housing, the Honourable Chris Hodgson, is intending to proceed with a new Municipal Act, which we understand"—Ms Mulvale, that is—"will deal with open meetings, among many other matters. At the same time, there is Bill 46, the Public Sector Accountability Act, which also has significant impact on municipal government and for which this association has similar concerns. In addition, the ministry has established a new and much more detailed set of financial information that must be submitted. This is on top of the existing requirement to publish annual financial statements and the preparation of independent audit requirements."

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The Chair: OK. Thank you very much.

Mr Bisson: I just have one question.

The Chair: Well, we really don't have any time for questions, but I'll allow you a question because I just want a clarification. Is it that you're concerned about how this act will affect the Municipal Act? Is that the main concern?

Mr Kells: No. Our concern is that the Municipal Act covers many parts of this bill, and if you recall, the honourable member's bill refers to the fact that if there is any duplication, the stricter of the bills—

The Chair: I understand.

Mr Kells: We feel that's a bit too prescriptive.

Mr Bisson: My simple question is that we are now reading the new Municipal Act and there are no provisions proposed by Minister Hodgson that deal with some of the issues you read in that letter. Are you bringing amendments to the Municipal Act? Is that what I understand?

Mr Kells: I don't know what your question is. Do you want to say that again?

The Chair: Well, that's for another committee to decide.

COLLEGE OF MEDICAL RADIATION TECHNOLOGISTS OF ONTARIO

The Chair: We will now hear from the delegations that are here. I'd like to call first of all on the College of Medical Radiation Technologists of Ontario, Sharon Saberton and Debbie Tarshis. Welcome to our committee. You'll have 10 minutes to make your presentation, and if there's any time left over—in other words, if you don't use the entire 10 minutes—there may be questions from the various members here. Good morning. Please identify yourselves for the purposes of Hansard.

Ms Sharon Saberton: Mr Chair and members of the standing committee, my name is Sharon Saberton, and I'm the registrar of the College of Medical Radiation Technologists of Ontario. With me today is Debbie Tarshis of WeirFoulds LLP, and she is a legal counsel to the college.

The College of Medical Radiation Technologists of Ontario, CMRTO, is the regulatory body for medical radiation technologists in Ontario. We have approximately 5,500 members. Our regulatory authority comes from the Regulated Health Professions Act—RHPA—and the Medical Radiation Technology Act, 1991. Our mandate is to serve and protect the public interest through self-regulation of the profession of medical radiation technology. The operations of the CMRTO are funded from the fees paid by our members.

CMRTO understands that the purpose of Bill 95 is twofold. First, it is to require specified provincial and municipal councils, boards, commissions and other public bodies, as listed in the schedule to the bill, and their committees to hold meetings which are open to the

public, to make available minutes of meetings that are open to the public and to set rules respecting public notice of its meetings and meetings of its committees. Secondly, the bill imposes conflict-of-interest rules on members of these bodies and their committees. It is provided that this bill and any regulation made under it will prevail over any other act or regulations. The general purpose of the bill is to ensure that these bodies are accountable to the public.

What follows is a summary of our main conclusions and recommendations.

(1) The CMRTO supports the principle of openness in order to achieve accountability. But this principle must be applied in the context of the statutory duties of the relevant body and balanced with other applicable principles so that such body can meet its statutory obligations. For health regulatory colleges, this balance has been struck in the existing legislation governing the colleges—that is, the RHPA—by having the council meetings of a college open to the public and by having its committee meetings, other than hearings of its discipline committee, closed to the public. CMRTO and the other health regulatory colleges should not be governed by Bill 95, because openness of its council meetings is already required by RHPA and to extend the principle to committees would impair the colleges' ability to carry out their specific statutory obligations.

(2) An independent review of the RHPA, the legislation governing the health regulatory colleges, including an extensive consultation process, has recently been completed by the Health Professions Regulatory Advisory Council. HPRAC's recommendations to the Minister of Health and Long-Term Care have just recently been released to the health regulatory colleges and the public. In its report to the Minister of Health and Long-Term Care, HPRAC carefully considered the principle of accountability and the legislative objective of making health regulatory colleges accountable to the public. By making certain piecemeal amendments to RHPA, the enactment of Bill 95 would undermine the review process that has just been completed by HPRAC.

(3) The CMRTO supports the adoption of conflict-of-interest principles for its council and committee members. However, the drafting of Bill 95, in particular the lack of definition of the term "personal interest," is too vague and would not be capable of being administered.

Our recommendations are (a) that the health regulatory colleges should not be defined as designated public bodies under Bill 95; and (b) that the conflict of interest provisions be redrafted to provide a clear definition of what constitutes a conflict of interest.

Next, I'd like to speak to why health regulatory colleges should not be defined as a designated public body under Bill 95.

The CMRTO has been established under the Regulated Health Professions Act—RHPA—and the Medical Radiation Technology Act to regulate the practice of medical radiation technology and to govern medical radiation technologists with the duty to serve and protect

the public interest. In accordance with the provisions of the RHPA and the MRT Act, the statutory duties of CMRTO include the assessment of qualifications for persons to be registered as members of the CMRTO, the investigation of complaints about its members, the conducting of investigations to gather information about a member's professional conduct or capacity, the holding of discipline hearings and fitness-to-practise hearings to determine whether a member has committed an act of professional misconduct or is incompetent or incapacitated, and the implementation of a quality assurance program.

In accordance with the code, the CMRTO, like all other health regulatory colleges, must establish seven committees: executive committee, registration committee, complaints committee, discipline committee, fitness-to-practise committee, quality assurance committee and patient relations committee. Each of these committees of the CMRTO has public members. In fact, most of these committees cannot perform their statutory functions without at least one public member. Other than discipline hearings, which, in accordance with the requirements of the code, are generally open to the public, the meetings of the committees of the CMRTO are closed to the public. The exclusion of the public from the meetings of these committees reflects the statutory roles that these committees carry out.

In order to understand why the public should be excluded from meetings of committees of the health regulatory colleges, it is necessary to understand the statutory functions that these committees carry out. For example, the complaints committee considers and investigates complaints about the conduct or actions of members of the college. The committee performs a screening function and decides on the appropriate disposition of a complaint, such as whether to refer an allegation to a discipline committee for a hearing, to issue a caution or to dismiss the complaint. Both for the member of the college and the individual filing the complaint, it would not be appropriate for these deliberations to be open to the public. For the individual filing the complaint, confidential patient information is usually involved in the investigation and consideration of a complaint by the complaints committee. For the member, the member is entitled to a non-public process to determine whether there is a basis to the complaint and whether the complaint warrants referral to a hearing.

The registration committee considers applications for registration for membership in the college that are referred to it by the registrar. Generally, an application for registration is referred because the registrar has doubts about whether the applicant meets the registration requirements. The registration committee makes decisions about whether these applicants should be issued or refused registration in the college. Under the registration regulations of the CMRTO, applicants are required to disclose very detailed information about their qualifications, their work experience and their past professional conduct in order for the registration committee to

assess whether they are qualified to be registered as members. There is a reasonable expectation on the part of applicants that this information will be treated by the CMRTO in a confidential manner. To make the committee meetings open to the public would run counter to this reasonable expectation.

The written submission provides further examples why statutory committees established under the RHPA should not be open to the public, as it would impair the college's ability to carry out their specific statutory obligations.

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I thank you on behalf of the College of Medical Radiation Technologists of Ontario for providing this opportunity to address these important issues with respect to Bill 95.

The Chair: We have time for one short question from each caucus. I'll start with the opposition caucus first.

Ms Di Cocco: There are a number of matters of which you speak that are already exempt from public purview in the bill anyway. I don't know if you have seen that, but there are a number of those. I'm just curious here. If there are areas whereby either you have your rules and there are public meetings that, let's say, you decide to hold in camera—you said a number of them are open to the public—is there a penalty to the board members for deciding to go in camera when maybe the rules say to hold it publicly?

Ms Debbie Tarshis: There is not a specific penalty for individual council members. However, as the registrar mentioned, the legislation has been reviewed recently through a public consultation process, and there are many recommendations with respect to how to achieve accountability to the public that one has to address in an overall sense in the context of this legislation, as opposed to whether imposing a specific penalty for one specific aspect of it achieves the accountability that is desired.

I would think the other issue, which is more a policy issue, is that the responsibility and the decision rests with the council as opposed to individual committee members.

Mr John Hastings (Etobicoke North): Thank you for coming in today. I have a couple of questions for you regarding the section under "Personal interest." If this bill were law right now, if this applied to your organization, how would section 11(1)(d) improve public decision-making regarding discipline of members or public complaints brought to your attention by a customer or consumer of health care in your area?

Ms Tarshis: I'm sorry, I'm not understanding the question.

Mr Hastings: Section 11 of Bill 95 deals with conflict of interest, and under (1)(d) it says, as one of the exhibitors of this, "that is so remote or insignificant in its nature that it cannot reasonably be regarded as likely to influence the member" thereof, which I read as saying that if you have any personal interest in anything—even own a house—you might have to declare a conflict of interest. My point is, if this were law right now, how do you see section 11 impacting your organization in the

disposition of its responsibilities, both from a discipline viewpoint of members and from a public complaints exercise? Would it bog it down or improve it?

Ms Tarshis: As I think the registrar mentioned, we are very concerned about the vagueness of the definition of "personal interest." By way of example, the council has authority to pass bylaws respecting the election process. Seven out of the 13 members of council are elected. Six of the members of council are members appointed by the Lieutenant Governor in Council. Such a broad definition of "personal interest" to mean conflict of interest could arguably mean that every elected member of council could not be involved in a discussion about an election bylaw, even though no one particular elected member had a specific interest at stake. So this is one example of why, in our view, a vague definition of "personal interest" would make it very difficult for the council to function.

Mr Hastings: Make it functional or more dysfunctional?

Ms Tarshis: Make it difficult for it to function.

The Chair: Thank you very much for your presentation. We appreciate it.

AD IDEM

The Chair: Next we have the Advocates in Defence of Expression in the Media, Brian Rogers. Sir, you have 10 minutes for your presentation. If there is any time left over, we'll have some questions, undoubtedly. Welcome.

Mr Brian Rogers: Ad IDEM, Advocates in Defence of Expression in the Media, really appreciates the opportunity to speak here today. It's the first time we've made an appearance in the legislative buildings here. We've appeared on other federal matters, because we are a national association. We are a national association of lawyers who represent the media and deal on a day-to-day basis with freedom-of-expression concerns in the courts and in advising clients. Newspapers and broadcasters of all nature right across Canada, of all partisan stripe and opinion, are involved in our organization. I think the committee clerk has distributed to you a copy of a short account of who we are, and I won't go further into it.

On a personal basis, I'm the past president of Ad IDEM and I've been involved as a lawyer in cases, some of which have gone all the way to the leave application at the Supreme Court of Canada on the very issues being addressed by this bill. I can tell you from that experience that there is a real problem that this bill is addressing.

For example, I was involved in a case where the Health Disciplines Board, for the first time in its history, decided to have open hearings on a matter. It involved Steven Yuz, a young fellow who died tragically at the Hospital for Sick Children. That was within two weeks of the charter being adopted. We were able to use the new freedom-of-expression protection in the charter to persuade both the board and then subsequently the various courts—the Divisional Court, the Court of

Appeal, and on the leave application, the Supreme Court of Canada—that it should be able to have open hearings.

Similarly, the economic development committee of the regional municipality of Hamilton-Wentworth decided that they would hold a workshop and would have that workshop in camera. On behalf of the Hamilton Spectator, we were able to persuade the courts that that should be ruled as a meeting and should be governed by the normal requirements of municipalities, and of the municipality's own bylaw, to hold this session, which was really a meeting in disguise, in public rather than behind closed doors.

I use those as illustrations because they are familiar to me. They are in the casebooks. You can look at them in the law reports. Can you imagine the amount of time and money it took to fight those cases all that way? On the one side, every penny was being paid by the taxpayers; on the other side, the funding had to come out of the pockets of, in my case, the Hamilton Spectator and the Toronto Star. It shows the imbalance that exists in the present system. It relies too much on the ability of individual citizens and in particular on the media, because of its passionate interest in this issue, to fight the good fight and to force these things to be open. But we can't afford this. My clients can't afford this on a day-to-day basis.

Every year, I get countless calls from clients inquiring whether a certain council or board or whatever can go in camera, as they have done. I explain to them the process and, once again, that board or council or committee can get away with it because there is impunity there. The odds are stacked, financially and otherwise, against those who wish to attack those who want to go into secret session.

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I'm not saying by any means that this province is dominated by unruly public officials who always want to go in camera, but I am saying that although the bulk of these institutions may respect the rights of the public to hear and watch and listen to what's going on, inevitably there are going to be some that don't. That's in the law reports; you can read it, countless times taking these matters to the courts at great expense. That is the only means of enforcement at present.

That's what attracts me about the bill. It introduces a different means of ensuring compliance with the law than putting the onus on private citizens, at their own expense, to challenge the public authority's actions. That is a real step forward.

I do see some problems with the bill. Mr Kells has addressed some of them. There needs to be consistency between the provisions of this legislation and existing legislation. In particular, I focused on the exemptions which are drafted in a particular way in Bill 95 that are consistent with some aspects of the Statutory Powers Procedure Act, but not with the Municipal Act or the Education Act, each of which has particular exemptions set out in the legislation.

I won't attempt to go through all of these various exemptions in the time I have. I do have the relevant

pieces of legislation with me, or some of them. I think it's something that can be addressed and should be addressed. We can tighten up these exemptions and we can achieve a consistency between the various pieces of legislation that doesn't exist now. One of the problems I have with Mr Kells' point of view is that although it addresses the Municipal Act or what is there, that is different from what's in the Education Act, which is different from what's in the Statutory Powers Procedure Act. There is no consistency at present and it's not effective.

Our organization got involved in this late in the day. I don't have a proposed draft set of amendments for you. But I bring to the table an expertise and availability of expertise by a voluntary organization. I don't get paid; nobody in our organization gets paid. We do it on a voluntary basis because we care passionately about the issues that affect freedom of expression. I can tell you, since September 11, it's never seemed more important.

I'm open to any questions that you may have.

The Chair: Thank you very much. We have time for a few short questions from each caucus.

Ms Shelley Martel (Nickel Belt): Thank you for coming today. You mentioned that you represent a number of clients. Is there a general pattern with respect to the kinds of or sets of public bodies that your clients find reluctant to have meetings or are consistently holding meetings in camera? Are there particular sets or is it right across the—

Mr Rogers: It's actually, Ms Martel, more a geographic phenomenon that varies in time. Right now, I seem to be getting a lot of calls about southwestern Ontario, which is where the honourable member Ms Di Cocco is from, not just Sarnia but rather outside, in other areas in southwestern Ontario. But it extends to boards of education, council, council committees. Those are the kinds of things that obviously the media are most concerned in covering. That's not to say that there aren't a number of other bodies that may have the same kinds of problems, but I may not get calls on them.

Ms Martel: With the regulated health professions, you mentioned that one of the cases you were directly involved in was the health discipline board. You heard the presentation just before yours.

Mr Rogers: Yes.

Ms Martel: What about media or the public who are interested in those proceedings of the various committees of the health professions?

Mr Rogers: I was involved with a number of others in fighting to get disciplinary hearings open to the public. The Law Society of Upper Canada never opened its disciplinary hearings. The medical profession never opened its disciplinary hearings. With the charter, we've been able to persuade them, and through a change in the legislation as well, to force those hearings to be open to the public, absent certain particular kinds of circumstances which are quite narrowly drafted.

They have moved in the right direction and we don't have as much difficulty with them, but it has been

because we've spent the money, gone to court, fought these battles with the law society, with the college, and have brought about, through our own efforts—I'm speaking on behalf of clients—changes in the legislation that have brought us to where we are today. I think we're in a much better position than we were.

Mr Steve Gilchrist (Scarborough East): I appreciate your presentation. I certainly can't disagree with a lot of your comments in here. I take you at your word that you care about accountability and openness, candour and honesty and that you've served to do that.

I'm intrigued, though, that you're doing it on behalf of people who don't seem to share those values. I'm looking through yesterday's clippings. "According to sources"? Is there a requirement on the part of newspapers to identify the people they're supposedly quoting?

Mr Rogers: Mr Gilchrist, I'd be happy to engage in a debate with you on the requirement of confidential sources—

Mr Gilchrist: It doesn't say "confidential sources."

Mr Rogers: I think that is in fact a very important issue that needs to be addressed and is being addressed on a day-to-day basis by reporters and editors. But to return to why we are here today, it's about Bill 95, sir.

Mr Gilchrist: No, no. We're turning to the credibility of a presenter who's making a point before us.

Let's deal with something a little simpler. Is there any dispute about who is employed on the editorial board of a particular newspaper? Should it be, as many newspapers do but certainly not all, in fact none of the Toronto papers that I'm aware of, that the name of the actual editorial writer accompanies an editorial so that people can understand the bias behind a particular article?

Mr Rogers: Mr Gilchrist, there's one very significant difference. What we're talking about here are public bodies created by statute and paid for by the taxpayers. I submit to you that unless we treat those kinds of bodies and institutions differently and carefully, requiring public accountability instead of trying to open up private corporations—does Bombardier? What we're talking about is something—

Mr Gilchrist: Nice tangent, but I'm taking from your own presentation, "The media act as their presence, serving as their eyes and ears."

Mr Rogers: That's a quote from the Supreme Court of Canada.

Mr Gilchrist: You're obviously comfortable with them also serving as their brain, because by not giving an honest accounting, I submit to you that the media really don't add a lot to this whole issue. I'm intrigued that you don't seem to share the belief that the media should have that same openness and accountability.

The Chair: Do you have a final comment on that, sir?

Mr Rogers: If I can just respond to that, I beg to differ, obviously, with Mr Gilchrist, but I think it's utterly irrelevant and I hope that the points I have to make will be taken on their own merit for the rationale that they offer.

Ms Di Cocco: I am interested in the consistency with which the rules would apply across the board. One of the items, that this act would overrule other acts—that was the intent. The intent was to make this, "We know what the rules are. Let's set them out, and this is how we conduct ourselves. If we choose not to, there is a fine." I'd certainly appreciate and welcome, if you have the opportunity when you look at it more in-depth, to provide suggestions in that regard, if you wanted to qualify that at all.

Mr Rogers: Thank you. I will take that opportunity subsequently.

Ms Di Cocco: I have to say that I am a little bit distressed at the bringing in of something other than what this bill is intended to do to these debates today. I do regret that that has happened.

Mr Gilchrist: Something that's never been done by the Liberals.

The Chair: Thank you very much, Mr Rogers, for your presentation. We appreciate it.

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INFORMATION AND PRIVACY COMMISSIONER OF ONTARIO

The Chair: Next we have the Information and Privacy Commissioner of Ontario, Mr Tom Mitchinson, the assistant commissioner. Mr Mitchinson, welcome.

Mr Tom Mitchinson: I have some brief remarks, and then I'm certainly agreeable to taking any questions the committee may have.

The office of the Information and Privacy Commissioner is, in general, supportive of the underlying thrust of an open-meetings scheme. Open-meetings laws have been adopted in a number of jurisdictions and are an important component of a broad public accountability framework. Our office has in the past supported amendments to the Municipal Act requiring municipal council meetings to be open to the public. We also have direct experience in dealing with appeals involving the application of an exemption claim, provided in the Municipal Freedom of Information and Protection of Privacy Act, that permits public bodies to deny access to records on the basis that their disclosure would reveal the substance of deliberations of properly constituted in camera meetings of municipal councils, police commissions, school boards, and other public entities covered by the municipal freedom of information act.

Although we are supportive of the policy objectives in Bill 95, we do have concerns with the implementation scheme set forth in the bill. I'll briefly identify our concerns here.

Many of the public bodies scheduled under the bill are also scheduled institutions, which is the word used under the provincial and municipal FOI laws. The access and privacy rules applying to open meetings and open-meeting records under Bill 95 are different from those that exist in the two FOI acts. This could cause unnecessary confusion. In our view, extending the current

public sector FOI and privacy laws to cover the access and privacy rights and obligations associated with open meetings could achieve the policy objectives of Bill 95 more effectively and appropriately.

If an open-meetings law is to apply to public bodies not currently covered by FOI legislation—I think you heard from one of those bodies this morning, the self-regulating professional organizations—we suggest that these bodies be scheduled as institutions under the provincial and municipal FOI legislation solely for the purposes of regulating open meetings and open-meeting records.

Some of the exemptions from rights and obligations concerning open meetings appear to address the same considerations as exemptions under current FOI laws, but use different language. I think one example of that would be your section 3(2)(b) of Bill 95, as compared to 8(1)(a) and (b) of the municipal freedom of information laws, all of which address law enforcement consideration but use different words. In our view, unnecessary confusion and inconsistent treatment of similar fact situations would be eliminated through the adoption of the same language used in the current FOI laws, which have been interpreted and applied by both our commission and the courts over many years. If any exemptions currently available to institutions under FOI laws are felt to be inappropriate in the context of open-meetings legislation, provisions that specifically remove specific exemptions from open-meeting records can address this concern.

Finally, as it relates to exemptions, we have serious concerns with section 3(2)(f) of Bill 95, which permits new exemptions to be added by cabinet through regulation. This power does not exist in other public access statutes and, in our view, an exemption to any right of access should be included by statute and not through regulation.

The bill does not provide for a dispute resolution system to deal with a request for records that has been denied by a public body, or where an individual has concerns regarding the proper collection, use and disclosure of personal information. Independent oversight is an important component of any open-meetings scheme, and the Information and Privacy Commissioner is the appropriate organization to handle appeals and complaints of this nature, given its existing structure and recognized expertise in the area.

Section 13 of Bill 95 provides that it would take precedence over other statutes, including the provincial and municipal FOI laws. This is inherently problematic to our office in the context of access to records and privacy, and unnecessary if the policy objectives of the bill are addressed through the existing legislative framework of our two FOI laws.

Finally, some public bodies scheduled under Bill 95 are adjudicative tribunals. Adjudicators need to meet following the completion of a hearing in order to decide how to deal with evidence and other issues leading to the formulation of a decision. Therefore, the bill should make provision for an adjudicator or panel of adjudicators

to be able to meet in private to ensure the deliberative confidence necessary for the adjudicative process.

The Chair: We've got some time left for questions.

Mr Hastings: Thank you for coming in today, sir. I have an intriguing question for you that applies directly to the office of privacy and information.

I have seen a news report recently that your office—Ms Cavoukian—is involved with the development of privacy provisions under the freedom of information act regarding technology with IBM; at least she's in a consulting or advisory role in some regard to the nature of privacy. My question would be, sir, how would Ms Di Cocco's bill apply to this kind of situation? Because you now have an office that's independent working on an issue the primary focus of which is privacy, but which is working with a corporate private interest. Would this bill apply in terms of that particular activity?

Mr Mitchinson: Others would probably be better able to answer that question, but I don't believe the Information and Privacy Commission is a scheduled institution under Bill 95, so I don't think it has any technical application in that context.

Mr Hastings: How about in the spirit of disclosure under this bill, even if you're not a listed agency of an adjudicative or any other nature that's listed in there?

Mr Mitchinson: Disclosure of the existence of the participation on the advisory body?

Mr Hastings: Yes.

Mr Mitchinson: I think Ms Cavoukian has fully disclosed that in the context of any involvement she will have in an advisory capacity. I think that's generally what's required in a conflict-of-interest situation, in any event, and then to govern herself accordingly as it relates to her ongoing involvement in any initiative that—

Mr Hastings: Do you still think so when you look at the section under conflict of interest, personal interest or public interest, subsection 11(d)?

Mr Mitchinson: Well, there's no personal interest involved at all that I can see in this context.

Mr Hastings: I see.

Mr Mitchinson: Any representation that Ann Cavoukian has on any body is in her public capacity as Information and Privacy Commissioner, not in any private capacity.

Mr Hastings: Very interesting. OK.

Mr Maves: Should your office, in your view, be under the schedule for this bill, and the Ombudsman's office and others?

Mr Mitchinson: I don't think our office operates in any different aspect than any other public body as it relates to the policy decisions around conflict of interest, so it's not something that would concern us in any conflict of interest regulatory scheme.

Mr Maves: Section 9 of the bill asks the Attorney General to be the body that oversees complaints under the bill. Do you think that should be your office rather than the Attorney General's office?

Mr Mitchinson: Yes, and I was surprised to see the Attorney General's office. The only explanation I can

come up with for that is that it may have been modelled on some US schemes for open-meetings laws that do not have an independent information and privacy commissioner. But if you look at schemes—maybe the state of Connecticut might be the best example of that—where they have full oversight functions for both records laws and open-meetings laws and they do have a commission, the commission is the complaint resolution or dispute resolution body in those contexts. Sometimes when there isn't a commission, they have an office holder within the Attorney General's ministry who provides an advisory role. But that would not exist in any scheme where there was an independent oversight body.

Ms Di Cocco: I have met with a representative from the privacy commissioner as well as with the integrity commissioner and spoken to them, because I believe that in the drafting up of the bill—and as you know, with private member's bills it's always a surprise when they get to second reading and pass, and also to be scrutinized. That's what this process is about. It's to be scrutinized so that it can be improved, and therefore you can end up tweaking it if you want, and fine-tuning it. That's what the committee process is about.

I have spoken to the fact that maybe there is that aspect that should be overseen by the bodies that are in place now, one being the integrity commissioner that may deal with the conflict of interest because that's their specialty, and the process of openness, if you want, or in camera, maybe comes under that.

I spoke to dealing with possibly putting in a better way of facilitating the actual overseeing, if you want to call it that, of whether or not this law is complied with. I have done that background work prior to this. But again, the bill was drafted, and those parts that can be tweaked to make it better and not add, as you said, another area of bureaucracy—I'm hoping that will be there with the amendment.

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The Chair: Thank you. Ms Martel.

Ms Martel: Thank you for coming today. Sorry if I misunderstood this. You said it would be more effective and appropriate to apply FOI language to the references to public meetings, or to conflict of interest?

Mr Mitchinson: To exemption claims, because I think the exemption claims that exist under Bill 95 are similar in topic to a number of the exemption claims that are under existing laws, and I just think it's better for any legislation that's dealing with common things to use common words. It's problematic if it doesn't.

Ms Martel: And the dispute mechanism that is now lacking could be incorporated by having your office deal with referrals with respect to public records, meetings that were not open, for you to act as a referee?

Mr Mitchinson: I think traditionally, as I was mentioning earlier, if there is such a thing as an Information and Privacy Commission in existence, that's the body that would be appropriate to be the dispute resolution body, yes.

The Chair: Thank you very much, Mr Mitchinson, for your presentation.

SUZANNE STANLEY

The Chair: Next we have the community representative for Toronto-Davenport, Ms Suzanne Stanley. Would you like to come forward, please? Welcome. You have 10 minutes for your presentation, and if there's any time left over, there may be some questions from some of the committee members.

Ms Suzanne Stanley: Good morning. I would like to aid in the support for Bill 95, which is before the committee this morning. Had this bill been in place in September 2000, I am quite sure that the highly questionable decision made regarding our small local school would never have occurred. What happened was, in the minds of our community, of questionable legality, immoral and redolent of backroom dealing.

Last year, Hughes Public School, which had been in operation since 1912, was closed and the building was leased to the private organization Beatrice House. We were puzzled and angered by the decision, as there definitely seemed to be a need for a school in our area, if not for the public school children, then for the Catholic school board.

A demographic review was to be done by law before any school was closed. In our case, it was a mere head count. The TDSB stated that we were a low-growth, aging community with very low growth probability. According to Statistics Canada in their 1996 survey, there were 120 new children between the ages of 0 and 12 on two streets surrounding Hughes, and a 5% increase is likely. There are also three new housing developments in the area. The host school, F.H. Miller, is now at full capacity. There are only 27,845 square feet there, but there are 52,984 square feet at Hughes. The StatsCan data would refute TDSB's finding that we are an aging, low-growth community.

Through our own research and due diligence, we discovered that a Toronto District School Board trustee also sits on the board of directors for the shelter that was awarded the lease to this 2.2-acre property sitting in the middle of a quiet residential area. We also discovered that shortly before the school was closed, the trustee for our area quit, only to re-emerge as the executive director of the shelter that was awarded the lease.

Beatrice House was considered superior to another prospective tenant on the basis of a number of assertions that later turned out to be completely false. What disturbed us so greatly, though, was the fact that a coterminous board had requested the lease, as 250 children from our own community were being shipped out due to lack of space, and were denied as they hadn't responded in the time set by regulation 444/98, even though at that time no lease had been signed, the building had not been altered, and the Catholic board made their appeal for the school before the final vote of approval for the shelter was given.

Our many attempts at raising questions regarding any of these issues were of course completely ignored, as we soon found that, unbelievably, the members of the Toronto District School Board seem to have the power to

pursue whatever agendas they please with a complete lack of public accountability. The shelter not once or twice but many times misrepresented themselves to us as to whom they served, what they offered, their financial viability, and what programs would be in place. We, our city councillor, Betty Disero, offered more than once our support for the shelter and alternative buildings within our community that would actually better serve the needs of the women and their children, and the needs of the children who already reside in our community. Not once did anyone from the shelter agree to look at other buildings or to hold an open discussion with us or the women who would be moving into the community.

We fought a long and difficult fight to see the glare of public light shone on both boards of directors. In response, we were quickly and conveniently branded NIMBY, intolerant and ignorant. The board of Beatrice House is very powerful. Fraser Mustard is a well-known and highly esteemed name throughout many sectors, and his supporters are many. We, on the other hand, are a working-class neighbourhood that watched dumbfounded as our own children were shipped to a small school located at an incredibly busy intersection. It's a paved-over lot—no playscape, no proper bathrooms or ventilation, no gymnasium, and one crossing guard, who paces like a caged tiger. We also discovered that an architect had been inside Hughes to evaluate it for Beatrice House before our school had even closed.

Fraser Mustard himself admitted to the National Post that there were some disgraceful goings-on at Beatrice House, in an article dated October 26 of this year. I would ask you to please read through the folders I have given you carefully, as 10 minutes to speak is not nearly enough time to let you know how deep and murky the deception truly is. We would not have had all the covering up, the hidden agendas, had this most important bill been in place. As of today, even after filing under the freedom of information act, we still haven't seen a copy of the lease. Our trustee, Nellie Pedro, has requested many documents and information. Nothing has been produced.

It is in the interest of all concerned citizens that Bill 95 be in place to protect everyone under the same umbrellas so that we can all be treated fairly and with absolute honesty.

The Chair: Thank you very much. We have a few minutes for questioning. Any questions?

Mr Patten: Thank you for coming. I just want to make a comment on your experience, because in my riding in Ottawa we have many parents struggling and fighting for the same thing: schools in the inner city, with no regard for the community or the families that were there. The problem is really the accommodations formula to maximize the use of space so that before you can apply for new schools in, say, big-growth areas, you're literally forced to close, sometimes, full schools. In some instances, schools with portables were being requested to close, which is absolutely asinine. So my comment to you is entirely in an empathetic manner to appreciate

people like yourself who fight for their schools and for their neighbourhoods.

Ms Stanley: My concern was the fact that the trustee did not stand up and declare a conflict of interest when she really should have totally backed away.

Mr Patten: Right, and this would address that.

Ms Stanley: Right. Our former trustee has a very high-salaried position with this shelter now. Because of our upset in the community, they've decided to call themselves a private school to get around the zoning. There are so many things that have gone wrong and, as I say, all these children who are being bused out of our community, this tiny little school that's now at full capacity, and people moving in. There are three new housing developments. There are tons of children moving in, and there's no room. They said by law they had to do a demographic review, and they did not. They walked in and they counted heads and said, "That's it."

Ms Di Cocco: My understanding too from your submission is the fact that you couldn't get the information as to how this process took place.

Ms Stanley: We have no information. We have nothing. We still have nothing. We've been asking for over a year. Through lawyers, we've asked.

Ms Di Cocco: For instance, how the decision was arrived at: what was the debate around it, how did they arrive at these things?

Ms Stanley: It was all behind closed doors. At one point, we were told they wouldn't be getting the lease because they didn't have the money, so then the board put it back for two weeks and scrambled and then they came back and said they did have the monies. Then it was saying \$4 a square foot, and by law it has to be \$6.96. They don't want to show us the lease, because that will be in the lease. That's when we could get Ms Ecker involved, because they've obviously broken a law. By law they have to get fair market value. It's a mare's nest really.

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Ms Martel: Was there any kind of public meeting that was open?

Ms Stanley: Yes, there was, actually.

Ms Martel: What kind of decisions were spoken about at that meeting?

Ms Stanley: At that meeting in particular—that was actually November 7 of last year—we were debating regarding another tenant who wanted to lease the building. For our community that tenant would have made more sense, financially and otherwise. Then our city councillor came in, she stood up and she said, "By the way, the Catholic board really needs this school. They're spending hundreds of thousands of dollars to ship their children out of the community," and the TDSB said no, and of course we all went crazy. There was a huge uproar. We said, "How dare you deny children who live in a community the use of a school before a lease has"—the school was in the same condition it was when the doors closed, and they said no.

We've got everything in your files in the folders there.

Ms Martel: So the folders would explain, if there were public meetings, what the nature of those were—

Ms Stanley: Everything, yes, and the answers and non-answers that came out.

Ms Martel: —and things that happened clearly that do not involve public meetings or public disclosure.

Ms Stanley: Letters from lawyers, our MP, our MPP and our city councillor, and still no answer is forthcoming. It's rather disturbing, to say the least.

The Chair: Any of the government members for questions?

Mrs Julia Munro (York North): I realize that you have provided us with an in-depth chronology of this, and so obviously on the basis of that, I can't ask you a specific question on that. But certainly hearing what you have told us indicates the kind of real difficulty that you have.

Ms Stanley: We have a need for these people to be open.

Mrs Munro: Absolutely, and that is perhaps for us the lesson that you've been able to bring forward to us today, with an example that certainly is a demonstration in the most glaring way of someone who was clearly in a compromised or conflict-of-interest situation.

Ms Stanley: Absolutely, yes.

Mrs Munro: From my perspective, I would say that this is indeed unfortunate that it's possible for it to happen.

Ms Stanley: Well, it happened.

Mrs Munro: Yes, exactly.

Ms Stanley: And we're still fighting it, believe me. We're not going away, because this is so wrong.

Mrs Munro: I would certainly understand that. I just want to make sure that you appreciate that we are sympathetic and will make a study of this.

Ms Stanley: Thank you very much.

Mrs Munro: What are our options in terms of being able to support you?

Ms Stanley: One of my concerns was in contacting Ms Ecker and giving her the information that we had—and you've got copies of just some of the petitions. We have so many petitions and hundreds and hundreds of signatures begging anybody from any level of government, "Please look into this." I guess Ms Ecker has to, because the board is such an entity unto itself. She asked the questions, they gave her the answers and she has to take that at face value unless she wants to do an investigation.

That's another concern of ours. These people should be investigated, this should be investigated, but her hands are tied in a sense as well. Our concern is that this little tiny board with all these billions of dollars is acting so outrageously. They have no regard for the law. They don't have to be accountable to anybody. They're accountable to themselves. They sit there like a bunch of demigods, controlling all this and not knowing what they're doing. It's frightening.

A perfect example is that the buyout for Ms Jackson would have paid for the complete renovation of the

school, with an extra \$100,000 left over. So how are these people to be responsible for our children and communities? Someone has to investigate them and make them accountable.

Mrs Munro: I really appreciate your putting this on the record for us and bringing forward your personal experience and the experience of your community. We'll certainly look at all of this.

Ms Stanley: Thank you very much. It's a lot of reading, and there's more if you need it.

The Chair: OK, Mr Hastings, a final question?

Mr Hastings: Based on your experience, do you believe school boards should be eliminated?

Ms Stanley: No, I believe they should be amalgamated and they should be held accountable to the parents.

Mr Hastings: Well, they were amalgamated.

Ms Stanley: No, I mean the Catholic and the public. I think they should be one board and they should consult with parents and community, which they do not.

Mr Hastings: How do you know, if you have one amalgamated board for Toronto, that you would have any more so called accountability than what you've had, based on the way they're supposed to proceed?

Ms Stanley: Well, for one thing the school would not have been closed. There were 250 children in the community who needed the school, and they said, "Sorry, you're not part of us." Well, what do you mean? They're kids who live next door to mine.

Mr Hastings: What is the capacity of that school: 320, 440?

Ms Stanley: Of Hughes? I think it's 320—or more, actually.

The Chair: We'll have to leave it at that. Thank you very much for your presentation. I'm sure we'll be reading this with great interest.

BRABANT NEWSPAPERS AND THE FLAMBOROUGH REVIEW

The Chair: Next we have Brabant Newspapers and the Flamborough Review, Mr Ken Bosveld, the group managing editor. Is Mr Bruce Haire with you as well, sir? Welcome, you have 10 minutes for your presentation.

Mr Ken Bosveld: I've been editing right up to deadline.

The Chair: That's great. You're in that kind of business, so there you go.

Mr Bosveld: Good morning, and thank you for the opportunity to speak to the committee concerning Bill 95. I'm Ken Bosveld, the group managing editor of the community newspapers in Hamilton, Ancaster, Dundas, Stoney Creek and Flamborough, and the associate publisher of the community newspapers in Waterloo, Cambridge, New Hamburg and Guelph. My colleague, Bruce Haire, is co-publisher of the Caledon Citizen, the King Township Sentinel, the Innisfil Scope, the Beeton Record Sentinel and the Tottenham Times.

To begin, we take it as a given that all committee members attach the highest value to a few basic principles and beliefs such as: open, accessible local government is a good thing; greater accountability is always preferable; and a clear, affordable and fully accessible process for dealing with alleged infractions is always desirable. Furthermore, we suspect that we wouldn't get bogged down in disagreement over a couple of other general observations; namely, that citizens in the communities we serve, and the communities you represent, very much desire more openness, greater democracy and more informed decision-making. But these things all require accountability, and accountability flows from clear rules and a method of enforcement.

With respect to community newspapers, our main concern has to do with the ease and frequency of in camera meetings by municipal councils and local boards. The greatest weakness in the current Municipal Act is the lack of penalties and the absence of a practical mechanism for dealing with alleged violations.

The new Municipal Act, as introduced by Minister Hodgson, appears aimed at moving toward a more mature relationship between the province and municipalities. But, like the current act, the proposed one does not provide for penalties, nor does it have a mechanism for dealing with complaints. We put it to you that it's not enough for the province to create the playing field, write the rules of the game and then step away without defining any penalties and without leaving a referee in charge.

Who is left to cry "foul?" Usually, it's a lone citizen, a ratepayers' group or a community newspaper. A complaint concerning an improper in camera meeting is not something you can bring to the local police. In fact, if a controversial item is about to be discussed in camera, you are far more likely to find the police providing security than questioning whether the subject can legitimately be discussed in secret.

If a violation does occur, there is no mechanism within the current, or the proposed, Municipal Act whereby a complaint can be effectively launched. Currently the only recourse is to take your evidence before a judge and hope that a slap on council's wrist might discourage improper secret meetings in the future. That's the current reality, and we don't think it's working very well.

A quick search through Ontario newspapers within the past few weeks alone reveals that:

Kingston council met in camera to discuss a private development proposal.

New Tecumseh council went in camera to discuss its procedural by-law and when council would hold its meetings, claiming this was a personnel matter.

Welland council discussed in camera the sale of land to a private developer.

Lakeshore council has held several in camera meetings to discuss the possibility of creating an in-house legal services position. That same council held an in camera meeting prior to reversing its position on a controversial subdivision proposal.

Hamilton councillors met in secret to discuss how the cash-strapped city can afford to build a new arena complex.

Ramara Township council met in camera to discuss disposing of municipal land. That conduct was challenged by Bruce Galway of the *Orillia Packet and Times*, who wrote in his column just last Friday, "I posed my questions to the Ministry of Municipal Affairs and Housing, and was surprised to find there is no apparent mechanism in the Municipal Act for handling such violations. The ministry stated that a member of the public must take action by taking it to a judge if the mayor or council violates the act. There is no provision for a penalty."

Even today the town of Bradford-West Gwillimbury is taking the county of Simcoe to court in an attempt to gain access to in camera reports concerning municipal restructuring.

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Don't believe for a moment that municipal councils aren't exploiting the lack of any penalty under existing laws. Hamilton councillors have met in secret five times in the past two months to discuss the process toward hiring a new city manager. You would think councillors would realize that clause 55(5)(b) of the Municipal Act makes it clear that personnel matters must relate to an identifiable individual. Discussing what to look for in a yet-to-be-identified candidate doesn't fall within the exclusions set out in the act. Yet councillor Marvin Caplan told the *Hamilton Spectator*, "Frankly, I think there should be more stuff in camera, not less."

Unfortunately, not all municipal councillors believe in open, transparent, accessible local government. Some really do seem to prefer secrecy, and its evil twin, lack of accountability. And that is precisely why we believe Bill 95 is needed.

The Ontarians with Disabilities Act proposes fines of up to \$5,000 for improperly parking in a designated handicapped parking space. Yet how can it be that currently there is no fine whatsoever, no penalty, no complaint mechanism, no effective recourse when a public body holds improper secret meetings and thereby denies the public the information they are legally entitled to?

We are not convinced that a \$1,000 fine will be much of a deterrent, but it's a start. Right now, the Municipal Act is totally toothless. While \$1,000 doesn't buy a lot of teeth these days, at least the law will finally have some bite.

But a fine is meaningless without an effective process for handling complaints. It is unrealistic to think the situation will improve if the only option for citizens is to invest thousands of dollars in legal fees to go to court against a council or body whose legal costs are being funded through the public coffers, all to prove that an improper meeting took place, and there could be a fine of up to \$1,000. For this reason, our main recommendation to this committee is that you create an effective and accessible complaints mechanism. We believe you can

easily do this by building upon something which is already in place and serving the people of Ontario quite well: the office of the privacy commissioner.

The privacy commissioner already has responsibility for reviewing requests under the Municipal Freedom of Information and Protection of Privacy Act. We would strongly suggest that you extend the scope of Bill 95 to allow members of the public to bring complaints of alleged violations of sections 3 and 5 of this act before the privacy commissioner, just as they would bring forward a freedom of information request or appeal. What we are proposing here is very similar to what our newspapers participate in through the Ontario Press Council. It's quick, cost-effective and it works.

With respect to the conflict of interest section of Bill 95, our concern is that the proposed \$1,000 penalty is substantially less than what currently exists in the Municipal Conflict of Interest Act. We agree that, given the seriousness of such offences, it is appropriate that the office of the Attorney General investigate complaints. But our second recommendation would be that the conflict-of-interest penalties in Bill 95 should reflect those within subsection 10(1) of the Municipal Conflict of Interest Act. This would allow a judge to remove a guilty party from their elected or appointed office, prohibit them from holding office for seven years, or order whatever restitution is required to offset any personal gain if they knowingly violate the act.

Our third recommendation would be to revise clause 3(2)(d) of Bill 95 to state that in camera personnel matters must involve an identifiable individual, similar to the way it's worded in the Municipal Act.

Our fourth and final recommendation has to do with the availability of minutes, as prescribed in clause 5(1)(c) of Bill 95. We believe the act should make it clear that minutes can be obtained or inspected before they have been adopted. Again, this is consistent with what is stated in subsection 74(1) of the Municipal Act.

Being a citizen of a democracy and holding public office in a democracy can be hard, demanding work. But it also requires a great deal of responsibility and accountability. We dare the members of this committee to aspire to create a model of local democracy that is greater than what we have today.

Please use your wisdom and your belief in a transparent democratic process to craft Bill 95 into legislation that will empower citizens to hold their local politicians to a higher standard of accountability.

We thank you for the opportunity to speak to you today.

The Chair: Thank you very much, Mr Bosveld. We have a couple of minutes for questioning. We'll start with Ms Martel.

Ms Martel: I think I'm fine, Chair, because the amendments have been attached.

The Chair: Yes, the amendments are part of the presentation.

Mr Hastings?

Mr Hastings: Mr Bosveld, I will propose an alternative that may be based on good judgment, common sense etc. What would your reaction be if, instead of setting up all these mechanisms, penalties, rules and processes, we create a municipal conflict of interest amendment act that says, "If you are in conflict as a municipal councillor, if you have a propriety interest, or an indirect one, and you don't declare it, you lose your position," and extend the kinds of matters Ms Di Cocco has brought up to that kind of situation? Instead of all these new rules, you lose your position. We'd have to have more bureaucrats.

The other charge that's brought against us, and I'm sure you'd appreciate this, is that we are often criticized for trying to micromanage local government.

The other point would be, what is wrong with the municipal law section of the Law Society of Upper Canada today, which doesn't seem to be advising their clients—ie, councillors and citizens who serve on agencies, boards and commissions—about what the rules are when you're dealing with conflict of interest? For example, if you have a propriety interest, you declare it, you aren't there and that's it. If you're dealing with a personnel matter where you're going to fire somebody, you declare it if your brother-in-law is the person, or if there's a criminal matter.

It seems we're trying to legislate some good judgment that is lacking.

The Chair: Do you want him to respond to some of those issues you've mentioned?

Mr Hastings: What's wrong with, you lose your office if you're a municipal councillor, instead of these rules?

Mr Bosveld: With the Municipal Conflict of Interest Act, you can be removed from office if you're convicted of conflict of interest, whereas Bill 95 refers to a \$1,000 fine. We're saying that the greater penalty that currently exists should apply if there is a violation.

Mr Hastings: Forget the \$1,000 fine; just be removed. How's that?

Mr Bosveld: That was one of our recommendations.

The Chair: Mr Haire, did you want to say something as well?

Mr Bruce Haire: I think that's going too far. I don't think you need a lawsuit to enforce the act. We want to see something perhaps less costly. I know that when one of our councillors got removed for a conflict of interest, the citizens who took him to court spent a lot of money and took a lot of time. In the end, we lost a good councillor over something that wasn't a huge issue. I don't think we're looking to be really punitive with this situation.

Mrs Munro: I just wondered about when you were talking about the question of there needing to be some kind of penalty, some kind of mechanism against in camera meetings, and the kind of practical limitations there are today. Right now in this Legislature and in the committee process we're looking at the Municipal Act. In

fact, yesterday this issue of in camera meetings was the subject of one of the deputations we heard. I would invite you to make a submission, which might be very similar to the kinds of things you suggested today, to that committee. If you could see fit to do that, to fax it to the clerk, because our deadline is Monday, I would invite you to do that, if possible.

Mr Bosveld: It's my understanding that the Ontario Community Newspapers Association made a presentation yesterday afternoon concerning the in camera portion.

The Chair: Anyone from the Liberal side? No.

Thank you very much to both of you gentlemen.

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ONTARIO ASSOCIATION OF BROADCASTERS

The Chair: Next we have the Ontario Association of Broadcasters: Paul Larche, president, and Stuart Robertson, lawyer. Welcome, gentlemen. You have 10 minutes for your presentation. If you take less than that, there may be some time left for questions. Go ahead, sir.

Mr Paul Larche: We'll take less than that. Good morning. My name is Paul Larche. I'm the owner of CICZ-FM in Midland, Ontario. I'm also president of the Ontario Association of Broadcasters. We represent most of the radio and television broadcasters in the province of Ontario. In our submission we have a list of our members, as well as a list of the board for the Ontario Association of Broadcasters.

With me this morning is our counsel, Stuart Robertson, of the law firm O'Donnell, Robertson and Sanfilippo, and hopefully, if we get into some questions about any of our specific recommendations, he can help us through some of that.

Ontario broadcasters all support open government and the bill introduced by Caroline Di Cocco is a bold and important step to see that the people's business is conducted transparently. We support Bill 95 and we focus our particular interest on the open meetings portion of the bill.

Broadcasters are members of the public too and want to know what appointed people are doing on their behalf: what decisions are being made and how they are being made. As members of the media with the job of telling the people what affects the communities of Ontario, we can say without any qualification whatsoever that we expect to be able to tell the public what is in the public's interest to know and, in doing so, get it right and be fair about it.

When the public's business is closed to public scrutiny, there is no real fairness that anyone can see or feel. There is no way that broadcasters and other members of the media can get a fair and complete picture of how things have unfolded so that we can tell the story as it should be told.

How many of you have felt over time that what you see as the real story gets skewed or screwed up by the media? "Oh well," you might think. "they're just trying

to sell newspapers or sell more advertising." Well, there is something you can do about that. It is not suggested that the best approach is to keep more things from the public's attention; instead, it is to make certain that the media has the tools to get it right and to be fair about it. If the only way the media hears about such important matters is from one side to an argument, why would you ever expect that the full story can be presented in a fair way?

Queen's Park has already dealt with the issue of the openness standard for bodies that exercise statutory authorities. This bill provides some much-needed teeth to that older law, but there is no need to limit the application of this bill to things that should be open under the older law.

In the handout to you this morning, we have made some specific suggestions as to how we think the bill can be beefed up a little so that it would make certain that the spirit of the bill can be honoured and respected. Here's a couple of the headlines:

Provide as clear a record as possible as to what the matter is that has to be heard in the absence of the public, so that the public can know what is being discussed and decided upon;

Make the exceptions to openness the same as, and not less than, those in the existing law that applies to bodies that exercise statutory powers;

The decision not to disclose must be reviewable by a court—with real consequences;

Allow broadcasters and other journalists to record the proceedings so that their reports can be as accurate as possible.

We congratulate all members from all sides who have voted for this bill at first and second readings. It is a brave step at open government that the public frankly expects at this point. The time for secret government is behind us.

Stuart and I would be more than happy to answer any questions that you may have. Thank you very much.

The Chair: We start with the government side this time. Any questions?

Mr Maves: I found the question Mr Gilchrist asked a previous group intriguing. His question was about media, talking about openness to the public, of being frank and open to the public and letting them know what's happening and who's saying what. The media uses unnamed sources all the time. That's not very frank and open with the public, so how do you square that circle where you're asking for more and more openness from, say, government, but there's no discussion about the issue affecting you? In here you can pick up a newspaper clipping any time and it will say "Queen's Park source" or "a Tory insider," which could, quite frankly, be just about anybody under the sun. The information could damage somebody or damage the government or damage a member of the opposition. It happens all the time, so should the media not be held up to that higher level of scrutiny by the public also?

Mr Larche: First of all, I would say what the former person who was presenting said—I think that we're talking apples and oranges here in one sense.

I'm here representing broadcasters—electronic broadcasting. We are regulated by the federal government under the CRTC, so there are consequences to what we do: we can have our licences revoked. We don't own the frequencies that we broadcast on; the Canadian people do. We're custodians of it for a certain amount of time. We have to renew those licences, and for any member of the public there's an opportunity, through tribunals such as this, through interventions to the CRTC, to make any complaints that they may have about a particular media, how they've conducted something or said something. Again, I'm not speaking for newspapers here; I'm speaking for electronic television and radio. We do have a code of ethics that we follow. The RTNDA—the Radio-Television News Directors Association—follow that code to the best of their ability.

Stuart, do you have any—

Mr Stuart Robertson: Nothing to add. That was excellent.

Ms Di Cocco: I find the question coming from the government members curious, because again, the intent of the bill is about public bodies, funded by public dollars, making decisions that impact on people's lives. I agree that there are elements of it and I thank you for some of your suggestions, some of which are up for interpretation because I think some aspects of it are already in the bill, but I'll certainly take a very close look at a number of the good suggestions. That's what the public hearings are for—so we can have an opportunity to have people who have experienced various levels of openness or closed-door meetings give their input and to have the experts give their input. Then, in the end, we hope as legislators we can come up with a very good policy, because I don't believe we have a mechanism that's easily accessible by the public that can ask, "Why do we have these closed door meetings?" and say, "There should be a penalty." Again, I regret this implication that it's the same thing that is there with the press council.

In just a few words—it would certainly help me—how do you see this bill as assisting what I call good local government?

Mr Larche: I think it would make people who serve the public think twice about holding anything back that could come under public scrutiny. We live in a democratic society where elected officials are to represent the views of the people and we should have a mechanism in place to make sure—and I'm speaking now as the media—that we can accurately reflect to the people what has been discussed. Sometimes we can't do that, and there's nothing that we can do about it right now, or there's nothing that we can do about it of any consequence.

To answer your question as to what the benefit is, I think the benefit is better government.

Ms Martel: Thank you very much for coming today. On page 2 of your suggestions, you have a section that

talks about a review of the decision under section 3, which would be the open meetings, and much of the reference is to a court of law. We heard earlier submissions that perhaps the dispute mechanism would be much better if it were under the privacy commissioner. I'm wondering if you have any comments about that, concerns, or would that work fine for you as well?

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Mr Robertson: I think the reason for putting this in is recognizing, firstly, the utility of the bill and the penalty that's there. This isn't to take away from that. This is to go to another statute in Ontario and take from it some very substantial power that may be exercised in the appropriate circumstance. This would then be an additional element of review here. Think of the consequences if you were to take this—it would not just be that those who've made a decision that shouldn't have been made would each be fined \$1,000; it goes further, to say the decisions made in that setting would be set aside, potentially if the court so ordered, and that all the costs of the application brought by those who sought to bring the application will have to be paid by the body that made the rule. It's simply adding some large molars to the teeth that are already in Ms Di Cocco's bill.

Ms Martel: I apologize; my concern was whose costs and how will they be dealt with if you do it under the freedom of information and privacy commission? Obviously that is covered.

The Chair: Thank you very much, gentlemen, for your presentation. We appreciate it.

ONTARIO PRESS COUNCIL

The Chair: Finally today, we have the Ontario Press council, Mr Mel Sufrin. Welcome, sir.

Mr Mel Sufrin: Thank you. Just one small matter: the name is spelled S-U-F-R-I-N, if it matters to anybody at all.

Thank you for the opportunity to address Bill 95. One of the objects of the Ontario Press Council as contained in its constitution is to review and report on attempts to restrict access to information of public interest.

It's with this object in mind that the council has for many years campaigned to ensure that meetings of councils and other municipal bodies are open to the public and press, with clearly specified exceptions. The press council, which represents 40 daily newspapers and 188 community and specialty publications, was satisfied when legislation was adopted that listed seven grounds for closing a meeting. Along with the Canadian Newspaper Association, it agreed that a mandatory exception under protection of privacy legislation could be added to the seven—and I emphasize the word "mandatory."

It did object when a 1998 draft bill added another clause which in effect would permit a municipal body to add one other reason of its own choosing for closing a meeting. The minister withdrew that clause before the bill was passed.

With this background, it's obvious that the press council is interested in legislation that will ensure that meetings will be closed only on reasonable grounds. If Bill 95 can do the job, I'm certain council members will support it.

However, I believe there is one reason for concern and that is exception (a), which says a meeting or part of a meeting may be closed if "financial, personal or other matters may be disclosed of such nature that the desirability of avoiding public disclosure of them in the interest of any person affected or in the public interest outweighs the desirability of adhering to the principle that meetings be open to the public."

Financial and personal matters may be reasonable grounds, but who decides whether it is desirable to avoid public disclosure of other matters? If it is the municipal body itself that makes the decision, it appears to be a way in which it could circumvent the intent of this legislation.

The Chair: Thank you. Questions? The Liberals first.

Ms Di Cocco: Thank you for your submission. I did highlight your comments on that aspect because the concept of the bill is hopefully to create a better, open process that's not onerous and that deals with true accountability. That's the intent. Again, and I've said this a few times at this committee hearing, I welcome the suggestions to tweak it, whether it's wording that could be similar to other statutes that are equivalent, or areas that, as you said, would end up putting us back into the same spot as we are in now. So I thank you for that.

I asked this of the previous person: in your view, and you must have heard a number of complaints, or at least concerns, about openness, do you believe we need this type of legislation? You're obviously here, hopefully for that reason. Do we need this kind of legislation to improve the way we do public business?

Mr Sufrin: I think the legislation certainly is needed. The press council has dealt over the years with a number of complaints from newspapers against municipal councils, or mayors in some instances. In every instance, it has upheld the complaint, but not based at that time on legislation so much as on what the council regarded as reasonable and proper practice by a public body. I think it's much simpler if there is strong legislation in place that clearly specifies whether a council can be believed to have improperly acted, that's all. So yes, I do see the need.

The council wanted the original act back in the early 1980s because we had horror stories from all over Ontario about the actions of various councils and other bodies. That helped. Subsequently, there have been some additions to it. I think the situation is nowhere near as bad as it was, but we still hear every so often—we're dealing with a complaint right now from a major city mayor and that is a complaint from a newspaper in that instance. It's sort of confidential until the council actually adjudicates it, after which we issue a press release. It may never come to that. Yes, I do think strong legislation is essential.

The Chair: Thank you. Ms Martel?

Ms Martel: I'm fine, thanks.

Mr Sufrin: Could I add one small matter, or do you want to ask a question?

The Chair: Mr Maves.

Mr Maves: Sure. Ms Di Cocco said, after asking the last deputant a question about public disclosure of people's sources, "This is about public institutions dealing with public dollars." So OK, if you're writing a story about public institutions dealing with public dollars and publicly elected people, shouldn't it be your responsibility to disclose your source?

It's in fairness to the public. They want to know where you're getting your information. You write a story and if you want openness and fairness and you want to have access to all of these public institution meetings, then similarly when you write about a public institution and public people, you should be obligated to disclose your sources.

Mr Sufrin: I agree and the press council agrees. As a matter of fact, a lot of editors and publishers agree that there are too many unsourced statements published in the press. Sometimes this is the result of reporters who don't work hard enough to get an identifiable source. At other times, the only way you get the information is by protecting the source. I'm reminded that there was never a source published all through the Watergate scandal, and it resulted in the downfall of a president. The fact that there are going to be stories without sources in them may not always be a bad thing, but I agree, it should be in there wherever possible. I don't think there is any real disagreement on that. But when you talk to somebody who has real information, inside information, you really sometimes have to concede that you won't publish the name of that person. You're kind of stuck some times.

I should add that the press council is on record as saying that a story that attacks an individual—this is a news story we're talking about—in other words, that contains an unsourced individual attacking someone else is completely improper, and if we had a complaint about it I'm sure the press council would uphold it.

The Chair: A final question, Mr Maves.

Mr Maves: Maybe a comment: you gave a good example of a case when someone needed to withhold the source or you wouldn't be able to get the story, but we get these clippings every day and they're filled with newspaper articles from the Star, the Sun, the Post, the mainstream newspapers. Every day I could go through and—

The Chair: And a lot of other papers do around the province.

Mr Maves: I could go through there every day and find stories without sources named, not about stories that have anything to do with anything like Watergate. Quite frankly, a lot of the things I read that come from unnamed sources—and I know that I was in the room when something happened—are far from the truth. You mentioned something where hiding the source is important

because it revealed the truth of something going on behind the scenes. I read them every day when there are unnamed sources who have something totally wrong.

Mr Sufrin: Why don't you complain to the press council when you have a specific case?

The Chair: Sir, you wanted to make one final comment earlier, or have you made it already?

Mr Sufrin: I think I've made it. Let's face it; we don't like lack of sources in stories. I don't think anybody cares for it, but it's going to continue to happen for definite reasons.

The Chair: Thank you very much for your presentation. The meeting stands adjourned.

The meeting adjourned at 1200.

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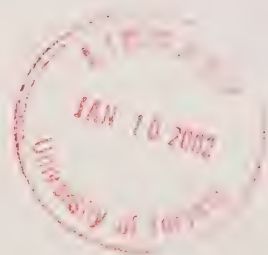
Ethics and Transparency
in Public Matters Act, 2001

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ASSEMBLÉE LÉGISLATIVE DE L'ONTARIO

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PUBLIC ACCOUNTSCOMITÉ PERMANENT DES
COMPTES PUBLICS

Thursday 29 November 2001

Jeudi 29 novembre 2001

*The committee met at 1004 in room 151.*ETHICS AND TRANSPARENCY
IN PUBLIC MATTERS ACT, 2001LOI DE 2001 SUR L'ÉTHIQUE
ET LA TRANSPARENCE DES QUESTIONS
D'INTÉRÊT PUBLIC

Consideration of Bill 95, An Act to require open meetings and more stringent conflict rules for provincial and municipal boards, commissions and other public bodies / Projet de loi 95, Loi exigeant des réunions publiques et des règles plus strictes de règlement de conflit pour les commissions et conseils provinciaux et municipaux ainsi que les autres organismes publics.

The Chair (Mr John Gerretsen): I call the meeting to order. Thanks for attending this morning. We're continuing our hearings with respect to Bill 95, an Act to require open meetings and more stringent conflict rules for provincial and municipal boards, commissions and other public bodies. We're here this morning to hear from a number of delegations with respect to the bill. We have 10 minutes per deputant, and if there's any time left over in that 10-minute time period there may be some questions from the various members of the different caucuses.

I understand that the first delegate, Mayor Mike Bradley, is not going to—

Ms Caroline Di Cocco (Sarnia-Lambton): He will be here, but he's caught in traffic.

MICHEAL CHOPCIAN

The Chair: I see. So the first deputant today is Mr Micheal Chopcian. Welcome, sir, and we look forward to your presentation.

Mr Micheal Chopcian: Thank you for providing me with the opportunity to speak to you today on the subject of the proposed Bill 95, Ethics and Transparency in Public Matters Act.

My name is Micheal Chopcian and I live in Sarnia, Ontario. I'm an electrical engineer and I hold a university degree in commerce. I support this bill, and I would like to give you three short examples of how this bill could have prevented some questionable behaviour on the part of the Lambton Hospitals Group in Sarnia, Ontario.

You see, hospitals are exempt from the freedom-of-information act. As such, they don't have to always provide minutes of board meetings or information to the public. Sometimes this can lead to public bodies spending public money without public accountability.

Let me quickly set the stage for what happened in Sarnia, Ontario, with respect to the Lambton Hospitals Group, their operating budget and their capital project.

In 1997, the government directed that the two Sarnia hospitals be co-located on to one site, and in February 2000, the government followed up by approving a \$67-million capital project of which the government would fund two thirds. Unbeknownst to the public was that since 1987 the hospital had been quietly assembling lands in adjacent neighbourhoods. After the approval of the capital funding and before any plans were released to the public concerning the approved capital project, the hospital accelerated their land acquisition efforts.

When plans for the capital project were finally released for public input, the community was aghast. They couldn't believe that the hospital went out and began purchasing land before any public consultation on the approved project had taken place. More concerning to the Sarnia community was that the proposed land assembly efforts were to convert yet another urban neighbourhood to a service parking lot. You see, this was the same approach which was used by the same organization around the other Sarnia hospital. Now that hospital is slated for abandonment, and the surrounding neighbourhoods, which were also converted to parking lots, will all be abandoned.

In an effort to understand how the hospital had assembled so much land, particularly in times when operating budgets were being cut, we formed the Sarnia Central Neighbourhood Association and we started asking questions about land assembly efforts. Foremost on our list of questions was, how did they approve such land assembly and where did the money come from?

We did not get a copy of the minutes of the board meetings on this subject but we did get various answers to the question. The CEO recently sent me a letter dated November 23, 2001—I'll provide copies of my presentation to all of you afterwards—and insisted that the money came from funds from reserves to purchase the real estate. However, the CEO had also sent me a preceding letter saying that the hospitals do not have reserve funds. Yet another letter from the chairman of the joint

executive committee of all hospitals in Sarnia insists that the money came from operating funds. None of this information can be verified, because the minutes of meetings where these issues would have been discussed are not available to the public. In fact, they don't even have to disclose how much money they spent for the properties. When we asked the hospital how much money they spent on real estate assembly efforts, they simply told us it was confidential.

Then we asked to see the appraisals for the real estate they had purchased, and they said that information was also confidential. So we went to the land assessment office and land registry office and here's what we found. This is one of the most blatant issues that we found. We found that the hospital spent over \$1 million on real estate, much of which was spent in years when hospitals were having difficulty financing health care needs in our community. As you can see, the hospital spent over \$380,000 on one property alone this year, one which was only assessed as having a value of \$152,000. This year, this hospital will report an operating deficit of over \$2 million.

The Sarnia community and the municipal planning department repeatedly asked that the hospital put up a parking deck to satisfy current and future hospital parking needs while leaving long-standing neighbourhoods and tax bases intact. The community was worried that not putting up a parking deck would result in delays to the hospital project and ultimately increase the cost of the hospital project. The hospital insisted that building a parking garage was cost-prohibitive. In fact, they quoted from a proposal they received from a private contractor saying that it would be financially impossible. When we asked to see the complete proposal for the parking structure, and the minutes from the board meeting where this was discussed, the hospital refused to release it, claiming that it too was confidential. A copy of the proposal was anonymously donated to the neighbourhood association. What the proposal actually said was that a parking deck could be built and hold 155 cars. This somewhat contravenes the version of the story offered by Lambton Hospitals Group, but again, the complete information that the hospital had was hidden from the public eye.

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This whole matter of hospital parking led to an Ontario Municipal Board hearing in September, which did in fact delay the hospital and capital project. The \$67-million project is now estimated at \$113 million. Still, nobody in the hospital or the government is accountable for the more than 69% increase in the cost of the capital project. The hospital is still on target to generate an operating deficit of over \$2 million this year. No one knows where they got the money to assemble lands. In fact, no one knows how the salary increases were approved for hospital executives this year, a year in which major operating deficits will prevail.

I have one parting comment for this committee on something that we ran across and found very interesting.

I'll draw your attention to the tax return for the St Joseph's Health Services Association of Sarnia, for the year ending 1999. The first thing I'd like you to note is that the hospital has requested that the public not be allowed to view the separately attached financial statements—that's this little box here you check. The next thing I would like you to note is that the hospital received more than \$31 million from the government—that's taxpayers' dollars—and they reported a deficit of over \$2 million that year. The interesting thing about this tax return is that in the same year the hospital reported a \$2-million loss, they also made a \$2-million donation. More interesting is the fact that the recipient of the \$2-million gift given by the St Joseph's Health Services Association of Sarnia was the charitable arm of that organization, the St Joseph's Health Centre Foundation.

I'm just a layman in these matters and I don't purport to be an expert, but Bill 95 is needed to help explain these kinds of things to the people, the taxpayers and the voters.

The Chair: Thank you very much. We have about one minute per caucus. The Liberal caucus first.

Ms Di Cocco: Thank you, Michael, for taking the time to come and make the presentation. Just a quick question. How do you feel the concept of Bill 95 would assist in this whole issue of accountability and transparency?

Mr Chopcian: Definitely, if people who are making these decisions, who are charged with the responsibility of looking after the public purse, know that their actions will be scrutinized and that there are penalties for making poor and improper decisions, it would make them much more accountable. What accountability do they have for making a decision right now?

Ms Shelley Martel (Nickel Belt): What reasons were ever given by the Lambton Hospitals Group for refusing to provide information, either copies of minutes of board meetings, copies of plans etc, for public disclosure?

Mr Chopcian: I can show you that. I have the letter they sent. They said it was confidential.

Ms Martel: That was it? There was no—

Mr Chopcian: You'll receive a copy of the letter—

Ms Martel: So that's what you're going to give to us? This was the most recent letter you got from them, November 23?

Mr Chopcian: Correct.

Ms Martel: So at this point in time, all requests that you've made for information continue to be blocked?

Mr Chopcian: Yes, ma'am. I can provide that documentation as well.

Ms Martel: OK. That would be helpful.

Mrs Julia Munro (York North): Certainly, to get this kind of insight into specifics is very helpful for us. One of the things that we have looked at as well is expanding the auditor's role in potentially being able to look at our transfer partners. I'm just wondering whether or not you would see something such as a value-for-money audit conducted by the auditor to be appropriate in situations such as the one you've given us today.

Mr Chopcian: I think you hit the nail right on the head. I would like to see an auditor come in and audit the books of the hospitals. I'd like to know why there's a \$2-million deficit this year, when their CEOs are receiving salary increases, when they're crying for nurses and they're declaring an operating deficit. It's a wonderful idea, particularly because this is taxpayers' money going to a target of our economy that is expanding in need and use in our community—health care.

The Chair: Thank you very much, sir, for your very enlightening presentation.

COLLEGE OF PHYSICIANS AND SURGEONS OF ONTARIO

The Chair: Next we have the College of Physicians and Surgeons, Rocco Gerace, immediate past president. If you'd like to take a seat at the table, please.

Thank you for being here this morning. You will have 10 minutes for your presentation. Perhaps you could identify—you're Mr Gerace?

Dr Rocco Gerace: Yes, and Katya Duvalko.

Good morning. As you've heard, my name is Rocco Gerace and I'm the immediate past president of the College of Physicians and Surgeons and currently a member of college council. The president of the college, Dody Bienenstock, was unable to be here today and has asked me to address you in her stead. Katya Duvalko has joined me today. Katya is the head of our policy department and I'm going to try to highlight some of the prepared remarks that we've circulated.

Firstly, let me say that the College of Physicians and Surgeons of Ontario, or the CPSO, welcomes this opportunity to comment on Bill 95, the Ethics and Transparency in Public Matters Act. In particular, we're asking that the college not be included as a designated public body under that act.

As you know, the CPSO is the regulatory body for physicians practising in this province, and we are given this responsibility under the provisions of the Regulated Health Professions Act, or the RHPA. It is our responsibility to regulate physicians by issuing certificates of registration allowing physicians to practise medicine, by investigating complaints, by disciplining doctors and finally, by ensuring the continuing quality of physician practice. We do so under the overarching principle of the act, which is "to serve and protect the public's interest."

It is the intent of Bill 95 to set up provisions that will affect the openness of certain committees and boards. It is the further purpose of this bill to increase the accountability of public boards funded by public dollars and to make their decision-making processes more open and transparent.

According to Bill 95, this college, along with 20 other health professional colleges, has been included as a designated public body that will be affected by the provisions of this proposed legislation.

I think you should know that the college operations are funded by fees paid by physicians, not by the public

purse. Therefore, we're not a public body according to the intent of this bill. Notwithstanding this, we do have a strong commitment to openness and accountability. I'll try to outline how we currently demonstrate this.

First of all, all college council meetings are open to the public, and minutes from these meetings are readily available to anyone who requests them. Discipline hearings are similarly open to the public and discipline committee decisions are available, both in print form and on our college Web site.

Other regulatory information, such as referrals to discipline and restrictions placed on physicians' practices, are also available to any member of the public.

Further public accountability is provided by members of the public who have been appointed by the Lieutenant Governor in Council to represent the public interest in the work of the college. These members of council are intricately involved in virtually every activity associated with the college.

Given our extensive public protection mandate, there are multiple regulatory processes conducted by multiple committees within the college. These committees are not open to the public currently because the RHPA has established confidentiality rules that apply to them and keep them closed for legitimate reasons. I'll try to give you an example.

The function of the complaints committee is to consider public complaints and make decisions regarding the appropriateness of the behaviour of or clinical care provided by physicians. By necessity, consideration of public complaints generally requires a review of a patient's personal health record. This information, as you can well imagine, is very private and highly sensitive. If meetings where personal health information was discussed were to be open to the public, we could not expect patients to agree to the review. This would seriously compromise our college's ability to carry out its regulatory functions in protecting the public interest. There are multiple further examples I can give you, and I can assure you that this concept holds true for virtually all statutory committees.

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Further, the college council is of the opinion that the provisions of Bill 95 would actually run counter to the privacy protection provisions being developed by the Minister of Consumer and Business Services in conjunction with the Ministry of Health and Long-Term Care. Opening the work of its statutory meetings to the public would not only cause the kind of unnecessary disclosure now being addressed by privacy legislation, but it would be clearly contrary to the ethical principles of both our profession and our college. The confidentiality principles date back to Hippocrates and are the cornerstone of the physician-patient relationship. We would submit that patient trust must not be compromised.

Although the exemptions envisioned by the bill could be called upon to close these meetings, this would seem to be an unnecessarily cumbersome, potentially confusing and certainly a costly process. Most activities, if not

all, would continue to be closed, and we feel that college resources would be better directed to fulfilling our statutory responsibilities. We do feel we can be more open and accountable, but I think we have to be careful.

In 1999, the Health Professions Regulatory Advisory Council, or HPRAC, conducted a legislated five-year review of the RHPA. This review has thoroughly and systematically considered the privacy versus openness and accountability issue.

As part of this review, our college has been aggressive in suggesting amendments to the act that would give us permission to be more open and accountable. For example, when there is a matter being investigated that would be in the public interest to disclose, we would like to be able to do so.

Further, regulatory outcomes that might be in the public interest should be disclosed and we're advocating that this disclosure be allowed. The Ministry of Health and Long-Term Care is currently considering how best to proceed with these suggested amendments, and we are hopeful that they will be incorporated.

It is the feeling of our college and our college council that the provisions of Bill 95 do not take into account the complexities and special needs of health regulators. It is on this basis that, while supportive of the principles of openness, high ethical standards, accountability and transparency, we're very concerned about the effects of the proposed provisions of Bill 95. We are concerned about their effect on our college's ability to do its statutory duties in regulating physicians in the public interest. The need for openness is better dealt with through alternative processes. It's for this reason that the college cannot support Bill 95 in its current form and is requesting that our college specifically, and health regulatory colleges generally, be granted an exemption to its provisions.

That's the end of my remarks.

The Chair: We have time for one question from each caucus.

Ms Martel: Thank you for coming today. I think Ms Di Cocco might make some comments with respect to amendments that will be coming with respect to the regulated health professions. I was curious, though, about page 6, when you said that the CPSO has suggested amendments to the Regulated Health Professions Act that would allow for changes. Can you give the committee some idea of what those changes will be and whether or not you expect the government will move on those as well?

Dr Gerace: Sure. I think, as I mentioned in my remarks, there are occasions when there are issues being investigated by the college that are high-profile, that the public has an interest in, and we feel that we should be able to make the facts of the investigation public in those cases. Similarly, there are dispositions by certain regulatory committees that are currently not public that may involve restrictions or alterations of a physician's practice, and we think that such dispositions would be in

the public interest to disclose, to make public. Those are just a couple of examples.

Ms Martel: Just so I'm clear, those changes, then, would require actually amendments to the Regulated Health Professions Act in order to allow that information to be disclosed?

Dr Gerace: Yes, that's correct.

Mrs Munro: I just wanted to look further in terms of the question that has already been raised with regard to looking at the manner in which your effectiveness could be enhanced, because that's clearly what you're looking at with this review. Is that fair to say?

Dr Gerace: I'm sorry, I didn't understand. Looking at—

Mrs Munro: The effectiveness of your abilities. That is the focus of this review, am I correct in assuming?

Dr Gerace: The review of the RHPA?

Mrs Munro: Yes.

Dr Gerace: Yes, we've commented on it because we think there is a need for more accountability. So that has been our aggressive submission to HPRAC.

Ms Di Cocco: Just a quick comment, but then I'd like to pass it to my colleague. When it comes to self-regulated bodies, I have been looking at that whole issue of the amendment, as you have suggested, because it did get caught, as did the marketing boards, in this whole web. Again, it's the legalese that came out of the discussions. I just wanted to reassure you of that.

Mr Richard Patten (Ottawa Centre): Thank you for coming today. As you know, this bill doesn't really affect your organization, but I'm pleased to see that you're suggesting a review, particularly related to the complaints review. In spite of Monte Kwinter's bill, which is to provide physicians with an opportunity to utilize complementary therapies, I've met with a number of doctors who are fearful of your organization because of its historical pursuit of doctors using something that that particular committee—I understand the gentleman who was in charge of this has left and so there may be an attitudinal change. But I hope that review is part of the review that you have, because my understanding is there's been a witch hunt for a lot of doctors who have employed complementary medicines; no complaints by patients but perhaps from some other doctors or from your organization itself. I hope that's part of the review, because I think it's time to move out of the dark ages.

Dr Gerace: I would just like to correct some misconceptions, if I can, Mr Patten. Firstly, there has never been a witch hunt; there have never been targeted groups. I think the allegation that the providers of complementary care—

Mr Patten: They have been targeted. I'll be happy to provide the information.

The Chair: Let the gentleman reply, please.

Dr Gerace: It's simply unfounded. I would suggest to you that over the course of the past 450 discipline hearings there have only been three or four that have been related to complementary medicine. I would just like to dispel the notion that we're targeting, and certainly in the

future we will be looking forward to taking a proactive approach to physician practice and physician behaviour and look not at punishment but at helping them practise better.

Mr Patten: I'd be happy to talk to you about that.

The Chair: Thank you very much for your presentation here this morning.

ONTARIO MEDICAL ASSOCIATION

The Chair: Next we have the Ontario Medical Association: Dr Tom Dickson, Dr Ted Boadway and Barb LeBlanc, director of health policy. Welcome to our hearing. You'll have 10 minutes for your presentation, and if there's any time left within the 10-minute time period there may be some questions from some of the members present today.

Dr Tom Dickson: I'm Tom Dickson and with me today are Ted Boadway and Barb LeBlanc, from the staff of the OMA. I chair the OMA's committee on hospitals and I'm a past president of the OMA. I'm an active ENT surgeon and spend a lot of my time, actually, at the present time, as chief of medical staff for a large multi-site organization and in that role have chaired an MAC for the past five years.

The OMA has prepared a written brief that makes recommendations regarding a number of aspects of the proposed law, including the Health Professions Appeal and Review Board, and the colleges that regulate health professions. But I'm going to focus my time this morning on the inclusion of hospital medical advisory committees as public bodies under Bill 95. I intend to spend only a few minutes on my prepared remarks and then we'll respond to questions.

Every public hospital in Ontario has a medical advisory committee, and they serve a number of very important functions within the hospital. Most importantly, the MAC is the bridge between the independent physician contractors, if you will, and the board of trustees of the hospitals who have the fiduciary duty for the quality of care delivered in the institution. The MAC makes recommendations to the board, not decisions, about appointing and reappointing medical staff. As part of the reappointment process, the MAC does things that would typically be considered part of the human resources function of most organizations, for example, reviewing the performance evaluation of physicians who are up for annual reappointment.

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The MAC also monitors quality of care on an ongoing basis for the board. It is comprised of a number of appointed physicians from across the hospital. Certain other senior hospital people are entitled to attend meetings but are not members, such as the CEOs or chairs of boards or vice-presidents. The MAC's meetings are closed to the medical staff at large; they are not open meetings generally. The MAC receives reports from all medical departments and committees—and they often include sensitive and at times controversial issues—and,

it's quite key, at very early stages of policy development. Premature release and circulation of these types of documents is not helpful.

The mechanisms used by MACs to ensure quality are varied, but most of them at some point involve detailed reviews of individual physicians' and/or patient information. Having this information open to the public would be in direct conflict with our existing laws and ethics regarding patient privacy. In addition, it would have a significant repercussion for hospitals' ability to engage in effective quality improvement and medical disciplinary action, since you would never get the level of candour required if the meetings were open.

Like most hospitals, we at William Osler use our MAC and its various committees, as well as other structures, to gather information about care, including where things have gone wrong, in order to improve our processes and overall systems. The essence of quality improvement is candour, frank discussion and case-by-case analysis. Opening it to the public and press would undermine this candour and stifle discussion. I also believe it would ultimately result in new structures, outside of the MAC, being developed to handle sensitive issues.

In short, the OMA agrees with the Ontario Hospital Association that hospital MACs are not public bodies and should be removed from Bill 95. We believe their inclusion in the ethics and transparency act would cripple hospitals' ability to engage in meaningful quality improvement activities.

That's the end of my oral remarks. If you have any questions, we'd be glad to try to address them.

The Chair: We have a couple of minutes per caucus. We'll start with the government side.

Mrs Munro: No, I think we've got a pretty clear idea of the position that you've taken on this. Thank you.

The Chair: Any other government members? No? OK. Ms Di Cocco.

Ms Di Cocco: I certainly appreciate your submission. Thank you very much for the input.

One of the things I find when you redraft a private member's bill is it's always interesting to see the reactions of the people it affects. This is why public hearings are a great process whereby there is this ability, if you want, to convey the considerations to be made for the various entities that are going to be impacted. I certainly appreciate all of that.

When it comes to your concerns, which I understand, because it's a subcommittee basically—it's an advisory committee to the hospital—it's a valid argument, I must say. I know that in London my understanding was that the medical advisory board said that they gave a different recommendation and then the board went ahead and made another recommendation. But of course there's no documentation that that was the case. It's "He said, she said," I believe, because there is really no recommendation. Do you not think that if there was a little more transparency in the recommendations that are made to the hospital board, it would assist the medical advisory boards?

Dr Dickson: The minutes of the MAC would be tabled and approved at the board meeting. That would be part of the normal activity in the hospital, so that would be on record as part of the board meeting, and any recommendation that would be made, if it were discussed at the board, would appear in the minutes of the board meeting.

Ms Di Cocco: I guess the problem is that there are really no criteria for the hospital board to make it public. They don't have to. They can just announce whatever they need to announce. They're not guided under the open-meetings aspect of the Ontario government.

Dr Dickson: There's not much doubt that certain portions of hospital board meetings could easily be open, but they deal with very sensitive issues as well and generally go in camera when that occurs. Actually, my remarks were mostly addressed at the MAC function itself. The board is a separate issue.

Ms Di Cocco: Yes. As I said, I do appreciate it. I am bringing forward a number of amendments to fine-tune the bill for bodies that didn't need to be in here that got caught in that whole structure of looking at public bodies under the statute.

The Chair: Ms Martel?

Ms Martel: I don't think there are any questions because I believe there will be some amendments that will exempt certainly MACs and also the self-regulating professions from the contents of the bill, from the provisions. We appreciate the comments you brought forward here today.

Dr Dickson: That will be much appreciated.

The Chair: Thank you very much for your presentation. Thank you for coming this morning.

FEDERATION OF HEALTH REGULATORY COLLEGES OF ONTARIO

The Chair: Next we have the Federation of Health Regulatory Colleges of Ontario: Mr David Hodgson, president. Good morning, sir. Again, you have 10 minutes for your presentation. If you take less than that, there may be some questions from the different members of the caucuses.

Mr David Hodgson: Good morning. Possibly I could wind this up in about 15 seconds and say thank you for the proposed amendments to exclude regulatory health colleges like our own. At the end, I might ask for confirmation of what you had in mind in terms of amendment.

I'm not going to follow any written notes, but the letter I sent in to the committee said essentially two things: the regulated health professions, 23 of them regulated by 21 health colleges, 220 health professionals and all of the people they serve, could potentially be affected by this.

The RHPA scheme is really a delicate balance of the rights and needs of the members and of the public to protect their privacy and the rights and needs of the public to understand what happens at the end of that. So

the complaints process, for example, is an opportunity for the complaints committee, which is made up of public members and professional members, to see whether or not there is an allegation of professional misconduct. Now, maybe there isn't, and if there isn't, think about a small-town practitioner—I don't know who it would be—any one of the 23 regulated health professions that are in a community of 1,000, and someone lays a complaint about their practice. If that were suddenly made public, and all of the machinations around reviewing that, without any determination of whether or not that complaint was valid, it might be inappropriate. We suggest it is, and that's why the RHPA is written that way. However, at the end of the day, the complaints committee then recommends to the discipline committee that there be an open public hearing, and that's the way the ball bounces. That's how you protect the public in that instance.

I'll just give you another example. I doubt that a man, woman or child who wants to complain about a sexual abuse incident would want that complaint to be made in the public. We take very, very extreme measures to protect the privacy and dignity of these individuals when they come to the college. I just want to emphasize that, and I'm glad to see you're doing that.

The other thing I might suggest and recommend to you, though, is in terms of the openness of the whole process. You've heard before about the RHPA review. There was a document called *Weighing the Balance*. That was done over a two-year period. The Health Professions Regulatory Advisory Council produced this document and said, "Think about these questions," in terms of fairness, flexibility, openness, a variety of things. They have just produced this document, called *Adjusting the Balance*, which contains about 70 recommendations by the Health Professions Regulatory Advisory Council, which is made up of public appointees to advise the Minister of Health on various things. They've made a number of recommendations, and some of them deal with openness.

You were asking before about what kinds of things perhaps the College of Physicians and Surgeons was talking about. At the moment, for example, an undertaking—if a member has been found not guilty of some misconduct but his or her conduct has been called into question and the college says, "We want you to undertake that you're going to live up to these regulations," at the moment there's no public access to that necessarily. So there's a proposal in here that those kinds of undertakings would now become public. There are other recommendations with respect to opening up the kinds of things that are on the public register with respect to decisions—not allegations, but actual decisions. When a decision has been made by the public regulatory body, it would then become public. Those are good recommendations and, as I said, I would recommend this to your consideration, *Adjusting the Balance*. We are expecting some draft legislation in the not too distant future based on that.

Essentially, I will end my comments there. If you want to ask any specific questions—and I would love to hear a specific commitment that we will be excluded.

1040

The Chair: We have a couple of minutes for each caucus. Ms Di Cocco, you're first this time.

Ms Di Cocco: Yes, as I said, when the agricultural community saw the impacts of the bill and took a look at it, they gave me a call and they talked about it. Sometimes it's really good to have some dialogue. I didn't receive any calls. As I said, I'm glad you made the submission, but we looked at the regulatory body as a body that should be exempt from this bill. It was a little more complex than it should have been and it got caught because of the definition that was applied. I did speak to legislative counsel and we will be bringing amendments that will deal with excluding the regulatory body.

The intent of my bill is better decision-making, not how to make it onerous, but to make decision-making as transparent as possible and, again, to ensure that the public interest is being served. I appreciate the input about the document you had in hand and look forward to taking a look at the recommendations. So thank you.

Mr Hodgson: If I just might point out, in terms of the discipline committee proceedings, there could be nothing more public than a member of the profession who potentially faces corporate capital punishment. The outcome of a discipline hearing could be to take away that person's profession, and to have that out in the public I think is a good example.

Ms Di Cocco: Yes, and I certainly appreciate that.

Ms Martel: Can I move to the stage before the discipline committee, which would be the complaints, so I can understand the process. The complaints portion of it itself—how does that normally operate? It's obviously closed to the public. Is the complainant allowed to participate and hear what is said?

Mr Hodgson: Exactly. As a matter of fact, this afternoon I'm talking with someone who may potentially want to complain against one of our members. Normally, the member of the public will come in and talk to someone who, at a college, will intake the complaint. We'll talk about the conduct of the member, and then it must be made in writing. The member of the public will say, "On this day, I was treated in this fashion and this is what I didn't like." That allegation of misconduct or of a transgression of a standard of practice is sent to the member. The member then has 30 days to reply. That reply is then sent to the complainant. They have that opportunity to reply. Then that material is given to the complaints committee.

So you have the complainant making the complaint, the member responding, the member's response going back to the complainant and then all of that going to the complaints committee. The complaints committee has the option of bringing people in to elaborate, if you will, on the complaints made, if necessary.

Ms Martel: Do you ever run into scenarios where a complaint does not proceed to the discipline committee

and you have a complainant who comes back and says, "The process was not open. Other people were involved in providing points of view that I didn't have a chance to respond to"? I recognize the openness of the discipline committee, but do you run into circumstances where, if it doesn't proceed at the complaints committee, you have an argument from a complainant who says, "This process wasn't open. I don't know everything that was said and I don't feel like my complaint was legitimately or openly dealt with"?

Mr Hodgson: There must be a written decision of the complaints committee that gives the reasons for their decision. That decision can then be appealed to the Health Professions Appeal and Review Board.

Ms Martel: OK. So there is another option.

Mr Hodgson: Yes.

Ms Martel: You were referring to undertakings. Should I assume that those would be essentially conditions on a licence to practise?

Mr Hodgson: Yes.

Ms Martel: Can you give us some examples? I recognize there's a broad range of health care providers that are going to be brought under this but—

Mr Hodgson: There might be a profession—ours, for example—where people practise in hospitals, they practise in private clinics, they practise in a variety of settings. There could be a restriction placed on someone's licence that we don't want them to practise independently for a period of time until they correct maybe their record-keeping or something like that.

In the event that we find they are incapacitated or they're a threat to the public, we have powers to restrict their licence and suspend their licence until such time as they comply. We wouldn't allow someone to practise when there's a threat to the public. Undertakings are used more in the compliance with the record-keeping type of regulatory process.

Ms Martel: If I'm clear, that would—

The Chair: I'm afraid we'll have to leave it at that, Ms Martel. Government members?

Mrs Munro: I don't think we have any questions. Just thank you for coming and particularly for bringing to our attention the real issue for you in terms of that balance between understanding the privacy of the individuals involved in the process and the need, obviously, for the public to know. I think of particular importance is the notion that you gave at the beginning about the individual who may be identified and then he can't be judged by the court of public opinion.

The Chair: Thank you very much, sir, for your attendance this morning.

ONTARIO HOSPITAL ASSOCIATION

The Chair: Next we have from the Ontario Hospital Association David MacKinnon, president and CEO, and Hilary Short, vice-president of policy and public affairs. Good morning and welcome.

Mr David MacKinnon: Thank you very much. We really appreciate the opportunity to talk about Bill 95. Since time is very limited, I'll make just a couple of introductory comments and then Hilary will go over our detailed concerns. Of course, we will leave a more detailed written submission with you. I don't think we need to cover its content in the opening remarks.

The first comment I'd like to make is that for the last several years in Ontario's hospitals we have been really focused on the issue of accountability. We are the only hospital system in Canada that makes available public reports by hospital on clinical outcomes, consumer satisfaction, financial performance and management of change. We also believe in the leading edge of practice in relation to this form of accountability, which is in some ways the ultimate form of accountability in terms of the continent. We are currently expanding this system and will be developing it over the next several years. We have had very positive and extremely helpful support from the Ontario government in this important initiative over the last year or so. So I hope we have demonstrated that we not only preach accountability, we practise it.

The second comment I'd like to make, and then I want to dispense with much of my formal presentation, is to just second the motion in terms of the content and the comments made by the Ontario Medical Association. In particular, just to focus on one issue, the MAC committee in hospitals is where medicine and community intersect. The one thing about medical error that everyone who has studied it agrees on is that if there is a safe forum where it can be openly discussed, it can be dealt with, but if there is no safe forum, it goes underground.

The procedures attached to the way in which hospital boards deal with MACs and their activities are intended to provide that safe forum and to avoid the obvious risks that happen. If error and risk and near misses and triumphs and tragedies don't get discussed, to us, in the long run, the lack of a safe forum where people can deal with those very difficult issues with sensitivity and rectitude is a real problem in terms of ultimately forcing those problems underground and they don't get addressed.

So really, with those two comments, we believe we are practising a very advanced form of accountability and we are very concerned, and we second the comments made by the Ontario Medical Association. Perhaps I'll turn to my colleague Hilary for a couple of detailed comments on our specific problems with this legislation.

Ms Hilary Short: I'd just like to add a few thoughts to David's comments. The OHA and the hospitals support the intent of this bill. The OHA has advocated for some years—at least 10 years—for hospital board meetings to be open. In fact, the majority of hospital board meetings are now open. We do have very serious concerns with the prospect of the medical advisory committees being designated as public bodies, as David has said. It would jeopardize patient confidentiality and the moves toward quality and peer review.

The other concern we have is designating board committees as public bodies. Opening hospital board com-

mittee meetings to the public we view as somewhat inappropriate, given their roles and the nature of their business. We believe that the role of board committees is really to provide advice to the board. We feel that the deliberations of those committees should be able to be full and frank and touch on a range of issues in advance of board meetings. So we feel that it would in some ways undermine the board's process of open discussion and decision-making.

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We would argue that the committees themselves as well as the medical advisory committee should not be designated as public bodies.

With respect to the openness of hospital boards, we would submit that the exemptions under Bill 95 don't provide adequate protection for confidential issues. Matters such as collective bargaining, property and matters of a contractual nature are currently protected under other legislation but they are not in fact protected under Bill 95.

Finally, we are somewhat concerned with the bill's offence provisions. OHA believes that the bill discourages public involvement in hospital governance. As you know, hospital boards are composed of volunteer trustee members of the community. We are somewhat concerned about creating offences and fines that could be excessively punitive and may deter qualified individuals from serving on hospital boards. We would therefore submit that public hospitals be exempt, which is currently the case under the Regulated Health Professions Act.

In closing, as David MacKinnon has said, the OHA certainly supports the intent to make public institutions accountable. Ontario hospitals we believe are recognized leaders in accountability and continue to strive for openness in governance. We're currently conducting a survey of our members in terms of the current status of open board meetings, and the vast majority of surveys that we have had returned demonstrate that board meetings are open.

But we cannot support the bill as it is written for the reasons I have outlined. We look forward to answering your questions.

The Chair: Thank you very much. Ms Martel.

Ms Martel: Let me begin in this way. I guess I'm concerned that you come before us and make a request that says that other committees of the board should not be part of this bill and that only the full-board discussion should be open.

The reason I say that is that we heard an earlier presentation which provided me with some compelling reasons as to why especially finance committee meetings should be much more open and transparent than they appear to be. I regret that you were probably not here for that.

A gentleman from Sarnia came to talk to us about some very significant problems they continue to have in getting information about land acquisition; nothing to do with patient care, nothing to do with confidentiality, nothing to do with important issues that might come

forward perhaps from the MAC but something that's clearly very important to the community in terms of where money is coming from to fund land acquisition when the hospital also has a \$2-million operating.

I wonder if you can respond to why you think that important deliberations that have nothing to do with patient care should not be clearly more open to public review.

Ms Short: I can certainly start on that in the sense that the argument would be made that in a normally functioning situation you would see the proceedings of a committee come before the full board; the actual recommendations of significant decisions would come before the full board.

Ms Martel: It might be the recommendations, but the financial analysis that led to those decisions, not all of that information might come before a full board and then be open to public review.

Mr MacKinnon: The potential acquisition and issues relating to land acquisition are of great commercial sensitivity in terms of cost and in terms of other issues and they've always been among the most difficult decisions that certain types of public bodies have to do outside their core business. I can see many reasons why people would be very sensitive about those, provided of course that in the end the decision is noted. But there are lots of good reasons why, including cost. One would want to be pretty careful about when those sorts of decisions and discussions become public and, ideally, from our point of view, in terms of the cost and other risks attached to them, that would be when the board makes a decision on them.

Ms Martel: Mr MacKinnon, if I might, what does the public do then when they believe that some of those decisions are not in the best interests of communities, as was the argument we heard this morning, but the same members of the public can't get access from the board with respect to why decisions are being made and where the money is coming from? And if those acquisitions continue, why is it that the board would run, then, an operating deficit at the same time?

You're in a difficult position, and I grant that because you didn't hear the presentation, but it sure had to leave a question in my mind: was the public interest and were taxpayers' dollars being best served and being used in the most appropriate way?

Mr MacKinnon: I could imagine that a hospital might want to build a new facility or make an extension to a new facility in order to operate more efficiently to save money, and in the short term it may well be in its interests to borrow in order to reduce operating expenses in the future. Again, without knowing the details of the specific case, I would submit that the acquisition of the land in the current operating deficit or surplus of the hospital is only indirectly related. It would be entirely reasonable for the hospital to borrow or to go into a deficit if it was in funding investments needed to improve and to save costs in the future.

The Chair: OK. We'll have to leave it at that. Government members?

Mrs Munro: Thank you for coming here today to give us some insight on this.

I want to just ask you to comment on this issue that Ms Martel raised in that we did have this earlier presentation. But it seems to me that in your comments this whole issue of acquisition of land obviously is something where there would be sensitivity around timing as to when it became public. If we were to look at municipal legislation, I think there are similar issues around the appropriateness of making these decisions public. So I think there's certainly a recognition that there is some sensitivity around what you do.

The issue, though, that was brought to our attention was the question of accountability in such circumstances. This committee has actually passed a resolution supporting a notion of providing the auditor with powers that would allow him to look at value-for-money audits with regard to transfer partners. I'm just wondering if you would foresee such an action as having the potential to deal with the kinds of issues we've heard and that have been raised here.

Ms Short: Hospitals absolutely have had concerns for some time about the notion of value-for-money audits. We need to know more, to study the impact. The OHA is fully supportive of accountability and the examination of all hospital books and examination of financial transactions. All we're saying is that designating committees as public bodies is not necessarily the best way to do that. You might go the value-for-money audit route, which we all see. There are various other ways you can do that. We're just suggesting that this might not be the best way. We certainly think that not making committees open does not mean to suggest that we don't think there should be transparency and accountability in hospital financing. That's not what we're saying. We're just saying that maybe there are other approaches than designating the committees themselves as open.

Mr Bart Maves (Niagara Falls): I just wanted to add to the question about purchasing a property. I would think that some of the commercial aspects you referred to, if someone is going to look at two or three pieces of property in a community that they might be interested in to build on, whether it be a municipality or a hospital or some other body, as soon as in a public meeting it becomes known that they're interested, or more interested in one piece of land than another, then obviously the price of the property goes up, therefore putting that entity at a disadvantage when trying to acquire that property. I think that was the type of example you were hinting at. Thank you.

Ms Di Cocco: I believe that the issue is about process, process about how the decisions are made, for instance, at acquisitions, or how the decisions are made with regard to very significant expenditures. I believe that hospital boards approve huge amounts, more than municipalities in some instances, huge amounts of dollars, because of the services they provide. It is one body that's

exempt from freedom of information. It's one body that expends a great deal of public dollars that doesn't have the oversight of the auditor who takes an independent look at value for money. It's also one of the boards that can arbitrarily—they don't have to conduct anything in public. And, as has been said by the very first speaker, even when the decisions have been made and how that process has evolved, it doesn't compel the board to give the information to the public. This is what I am getting at. I understand that you say it's important to have accountability—and we use that word ad nauseam, all the time. But it's conduct, and it's process. As Ms Martel said, going out of patient care but into other management of the facilities and all this, why do you feel that this bill should exempt hospital boards from that kind of scrutiny?

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Ms Short: Just to be clear, we're not arguing that hospital boards should be exempt. We're saying medical advisory committees, other committees. Most hospital boards are already open to the public. I just wanted to be clear on that point.

Ms Di Cocco: They're open to the public by their own, if you want to call it, voluntary—there is no legislation that requires hospital boards to conduct their business in the open. I understand the regulatory bodies; I understand that. What I'm suggesting is, don't you believe that if we have legislation that requires an open, transparent process, and also a penalty when decisions or business are conducted behind closed doors—as Mr Maves has said, I understand the negotiating aspect, and my bill does exempt when you're acquiring land, etc.

I guess I'm trying to understand why you believe that hospital boards—as you said, they're already open, according to your comments, which I don't think is the case, by the way. I don't agree with you; I think that's arbitrary. It depends on the board and if they're willing to do that. Have legislation that would ensure that all boards conduct their business in the open, and again have a mechanism so that they're encouraged to conduct their business in the open.

The Chair: OK, can we have final comments?

Mr MacKinnon: Hospitals are among the most regulated of enterprises. There is virtually nothing hospitals do that doesn't require extensive regulatory approval by one regulatory body or another. So the notion that hospital boards are sort of closeted off and doing their own thing, I don't think anyone who reads the Public Hospitals Act closely—they're very closely regulated and supervised by any number of bodies. That, in addition to the report card system and others, is a major protection against some of the issues.

The Chair: OK, we'll have to leave it there. Mr Peters wanted to make a comment.

Mr Erik Peters: I think I would like to put on the table that we had a very compelling argument made this morning, in a presentation where a hospital created a deficit by making gifts to its own foundation, that value-for-money audits would appear to be in order for these

kinds of actions. This is not unsupervised. These sorts of actions, I think, are compelling reasons why there should be some sort of public scrutiny of what decisions have been made by hospital boards.

The Chair: Mr MacKinnon, the last word is yours.

Mr MacKinnon: I pretty much agree with that. There is all kinds of public scrutiny of what goes on in hospitals: public bodies, regulatory agencies, comments in report cards. We get up every year and talk about it in each community. It would be a subject perhaps for another day, but I would very much disagree with the Provincial Auditor's comments.

The Chair: Thank you very much for your comments, and thanks to both of you for coming.

MIKE BRADLEY

The Chair: I understand that mayor Mike Bradley is here now from Sarnia as our last presenter. You made it in with a minute to spare, Mayor. But I know that's the life of a mayor.

Mr Mike Bradley: It's also the life of a bad driver. I apologize. A three-hour trip took five hours, thanks to the weather and the congestion.

The Chair: Oh, wow. Well, welcome. You have exactly 10 minutes for your presentation. That will include any questions and answers. We look forward to it.

Mr Bradley: First of all, I'm speaking to you on an issue that's really important to me personally: open government and accountability. I think I bring a good perspective to this issue—it's been formulated since 1988—as mayor of the city of Sarnia, as a member of AMO, as a member of the large urban cities of Ontario and chairman of that group.

I do want to make it clear to you that I'm not here on behalf of my council. They did not, to my disappointment, support the bill. They made a number of very positive suggestions, which I've incorporated to some degree in my comments. In fact, it was almost a back-handed compliment from some of the councillors saying, "You run such a strong meeting in the sense of even allowing in camera that we don't need to support the bill." That may be a compliment, but it doesn't safeguard the public interest. The reality is it's the system that should safeguard the public interest, not individuals.

Living in a border community, I've also had the experience of witnessing and working with my colleagues across the river in Michigan and understanding fully how the Open Meetings Act works there and why it should be beneficial to Ontario.

I've witnessed abuse at the local level. I've had boards and commissions that I'm a member of meet without my knowledge on the basis that no one would ever know. In point of fact, if it weren't for the media, on occasion I wouldn't have known.

I'm a member of Lambton county council, which repeatedly meets in camera on issues that are in the public domain. Even this year they were holding in camera meetings and not giving notice to anyone in the media or

the public. Our practice in the city of Sarnia, which isn't legislated, is that we do give public notice of any in camera meeting. If you don't know the meeting has taken place, how do you know what was discussed and how do you know that the public interest was protected?

I first raised this issue in September 1996 with Mr Tom Wright, who was then the privacy commissioner, and I've attached correspondence related to that. I wrote to Al Leach in 1999, and I wrote again to Chris Hodgson in 2000. Both ministers said they would review the issue for the Municipal Act.

Now, the old Municipal Act and the new Municipal Act don't reflect the recommended changes. They deal with some changes to in camera issues, but they don't deal with any penalties. Public embarrassment or media attention is not sufficient, in my view, to protect the public interest and public business.

I do support Ms Di Cocco's bill, and I've had numerous discussions with her on the legislation. I think it fits into the present government's agenda about accountability and responsibility and would cost very little to bring about.

The number of actual situations that develop in Michigan with the Open Meetings Act is quite small, actually, because the preventive factor is there. The fact is it's self-policing. When people are aware they may be fined and there may be public embarrassment, they think twice about violating the act.

I do believe that there should be some changes to the bill, and I'd like to make some specific suggestions to you. I think there are far too many boards, commissions and committees in the bill at the outset. I think it should focus on the primary controllers of tax dollars at that local level: city councils, county councils, regional councils, hospital boards, college boards and school boards. After a period of time, look at those other boards and commissions, but let's at least have the intent of the bill move forward and see if it's practical and feasible.

I think there has to be a better definition of what a committee is, if the bill does proceed as is.

I don't believe the responsibility should be delegated, at least at the council level, to another member of the council. It is the responsibility of the chairman, and it should not be delegated.

The fine schedule needs to be different. In my view, the fine should be twice as high for the chairman of a body. That's where the responsibility lies, and that's where the onus should be if they're properly discharging their duties. And the fine should be more fluid. It should depend on the nature of the offence and the harm to the public interest. It would be like having the same fine for jaywalking as for a major Criminal Code offence. It needs to reflect the damage done to the public interest.

There is also a need, in the other act that's being generated in this Legislature, for a requirement for public notice of a meeting in camera. There's no requirement at the present time, nor is there a requirement to report out in a timely manner. I have known councils that have passed motions and never reported out a motion. No one

will ever know, and there's no protection for the public interest. So there needs to be accountability, responsibility and a tight time frame on doing that.

I believe that all of us want those goals of accountability, and this can be done in a low-cost, effective manner that works in many other jurisdictions, particularly in the United States.

Mr Chairman, those are my comments to you. Once again I thank you for juggling your schedule and apologize for my lateness.

1110

The Chair: Thank you very much for your presentation and for the suggestions you've made. We'll start with the government caucus this time. Mr Maves.

Mr Maves: Thank you for your presentation and for coming in from Sarnia. When it rains in the GTA, traffic backs up for a long time. I was late this morning myself coming from Niagara Falls.

On page 5 you talk about the new Municipal Act reflecting some changes with regard to in camera issues but that it has no penalties. Do you believe that the Municipal Act could deal with this on a municipal level if it was amended to add some penalties?

Mr Bradley: You'll see later in the presentation that I corresponded twice with ministers on this issue. I prefer to see a separate act like this act. Notwithstanding that, I just want to see the penalties in place. I think you might find it interesting that here I am at the local level saying, "Bring on the penalties," because I think it's important. But I do think a stand-alone act would be a lot better than, for example, using the Freedom of Information and Protection of Privacy Act—a stand-alone act that specifically deals with certain issues, versus putting it into that hodgepodge by nature which is the Municipal Act.

Mr Maves: Two things then: you mention the Michigan act. I understand the Michigan is actually a lot more detailed than this act. Would you suggest that if we're going to have a separate piece of legislation, it be more along the lines of the Michigan model?

Mr Bradley: My understanding is that this act used that as the premise. As I've said to you, I think the intent of this act is very good. I think it fits the government's agenda and, I would hope, all parties' agendas on accountability and transparency. It does need refinement, and I think that's what you're doing today. I compliment you on the fact this is even at committee. I would look to see changes that perhaps could reflect some of the Michigan act, but I think the premise of a fine structure and accountability and rules is something that is there. It just needs to be polished up somewhat.

Mr Maves: On page 10 you talk about the fine being more fluid than it presently stands. I understand there are more serious offences than others. Do you have any suggestions on that?

Mr Bradley: One suggestion is that the chairman of the group should be subject to twice the fine of a regular member, because I think that's self-policing. If you're a chairman or a mayor or a warden or a regional chairman, and you know the responsibility is twice as much on you,

I think that's a big step forward. I'm not a lawyer; I would leave that to the experts.

It was actually one of my councillors who made the suggestion: if you were a developer and you wanted to play fast and loose with the interests of the public, and a councillor was concerned about that, a \$1,000 fine wouldn't bother the councillor if the developer was backing him. I think there's a need to be more reflective of what the damage is to the public interest. There may be times when it's just a dollar; it's just one of those inadvertent things that happen when someone makes a mistake. I think there just has to be more flexibility.

Mr Maves: OK. Thank you.

Ms Marilyn Mushinski (Scarborough Centre): Hello, Mayor Bradley. Nice to see you again.

The concern I have relates perhaps not so much to a local council as to a regional council, which usually meets far more rarely than sort of regular council meetings. You yourself have indicated that you are a member of Lambton county council, which has repeatedly met in camera on issues that are in the public domain. I can recall my council having a very strict and rigid procedure bylaw that clearly dictated what the public realm issues would be and what the in camera issues would be. Does your particular regional council have such an animal to govern the behaviour of local councillors? If it does, does it not stipulate certain penalties if those particular procedures are broken?

Mr Bradley: First of all, yes, they do. I think most councils at most levels these days do have some sort of procedural bylaw. The problem is that a simple majority can overrule if someone simply says they want this in camera. I've always added a fifth category to in camera, which is "embarrassing." That is one of the categories that seems to be—you can make it legal, you can make it property, but "embarrassing" is the way you get it in camera, and a simple majority can do that. And I don't believe you could put in a fine structure through a procedural bylaw.

The other thing I'd like to see, obviously, is uniformity across the province: one set of rules for municipal councils, just like the Municipal Act. That would make a lot more sense, because there are lots of councils that work in a very co-operative manner and stick by the rules—I want to make that clear—but it's the aberrations and the rogue councils that are the problem. One of the other issues that's actually very interesting to me, and I've watched it in the last 12 or 13 years, is that with the shrinking of the media and the media becoming conglomerates, media scrutiny at the local level now is extremely limited. I just think you need a provincial law that covers all the bases and covers all councils equally.

Ms Di Cocco: Thank you, Mayor Bradley, for the five-hour drive to get here for your 10-minute presentation.

The Chair: Well, he's already had 12 minutes.

Ms Di Cocco: OK. The Municipal Act has an extra criterion—I don't know how closely the government members have seen it—with regard to the open-meeting

aspect of it. They've added, actually, one other dimension to go in camera; that is, the disposition of land now. Before it was just acquisition. I had research take a look at it. They've added that as another rationale to go in camera, along with that other list, rather than make it more open. As a mayor, can you give me an opinion on that, about this extra aspect of going in camera for disposition of land?

Mr Bradley: I don't know where that came from. I don't believe it's necessary, because we're dealing with the public interest. Appraisals in camera I understand, because you need to protect the public interest on the disposal of lands. Our procedural bylaw does not allow that to happen. It has to happen through a public process: you declare it surplus and then the public's notified and there's a public meeting. This would seem to me to be taking us backwards. I cannot find the rationale for doing that, because the public interest isn't going to be served. By allowing the disposal plans, you can make a straight deal with the developer without anyone else knowing they could have a shot at that property, and that's not right.

Ms Di Cocco: Just one other aspect I will attempt to put on the record, to bring some more clarity. I do appreciate your suggestions from the years of experience on this, and in the amendments I will bring some simplification of this process so it doesn't become onerous and there is a clear direction. I do want the provincial continuity. That's what the aim is, because, as you said, it depends on who is running the show, at what local council or what local public body. My thanks.

Ms Martel: One quick question. Thank you for driving in here this morning to make this presentation. I was interested in you telling the committee that you felt there should be a separate act, and I'm going to assume that part of the reason for that is that even if you made the changes to the Municipal Act envisioned in Bill 95, it doesn't go forward and capture college boards, university boards, hospital boards and all of those other transfer agencies that get huge amounts of dollars, in some cases, from the province. Would that be another reason why just having some amendments to the Municipal Act does not guarantee openness and why you would support a separate act that covers those institutions as well?

Mr Bradley: That's a very astute point. That's exactly why you need the separate act. I am suggesting, though, that you scope down at the beginning and go with the principal boards and commissions that control a community and then expand it after you've had some time testing it. But you're quite right. That's exactly why you need a separate act. I'm sure hospital boards and other groups do not want to be part of legislation that primarily, 99%, would be dealing with municipalities.

The Chair: Thank you once again for coming and for making your presentation.

Before we adjourn, I think for the record we should just indicate that we've received letters from—

Mr Maves: Can I say one quick thing? I think Ms Di Cocco at least owes the mayor lunch for coming all the way down here.

The Chair: I think that will happen. She will buy him lunch, I'm sure.

For the record, I think we should state that we've received letters from the Association of Municipalities of Ontario, dated November 28; from the Ontario Dental Association, dated November 26; from the chief administrative officer of the city of Toronto, dated November 28; and finally, from the College of Occupational Therapists of Ontario, dated November 27. Those have all been

distributed to the committee and will be taken into account by our legislative researcher in coming up with the report.

Also, I'd like to ask the members of the subcommittee if we can have a subcommittee meeting next Wednesday right after question period, in the opposition lobby, to deal with a number of different issues, including the disposition of this bill, the auditor's report and the outstanding reports of the committee at that time. OK?

Thank you very much. With that, we're adjourned.

The committee adjourned at 1120.

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**Assemblée législative
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Deuxième session, 37^e législature

**Official Report
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Thursday 6 December 2001

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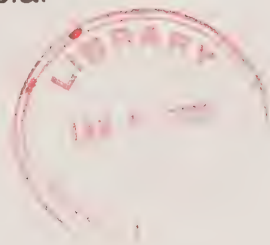
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**Standing committee on
public accounts**

**2001 annual report,
Provincial Auditor**

**Comité permanent des
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Thursday 6 December 2001

Jeudi 6 décembre 2001

*The committee met at 1011 in committee room 1.*2001 ANNUAL REPORT,
PROVINCIAL AUDITOR

The Chair (Mr John Gerretsen): Let's call the meeting to order. We will deal with the subcommittee report once we have a full complement of members.

We will deal with item number 2, which is an overview by the Provincial Auditor, Erik Peters, on the 2001 annual report.

Mr Erik Peters: Do you want to do that first?

The Chair: Yes.

Mr Peters: The handout that was given to everybody is the handout of my remarks to the media that I made just briefly prior to the tabling. Some of you probably have it because, as you know, one member from each party of the committee can attend the hearing, but I know that many of you have not seen it. I just wanted to quickly highlight for you the items that are mentioned and make some brief explanatory further comment, if I may, and then open it for questions, if that is agreeable to you, Chair.

The Chair: Sure.

Mr Peters: The items that we highlighted are, firstly, the instances where performance and results achieved were in significant need of improvement. The first one was in the area of the Ministry of Agriculture, Food and Rural Affairs, where we found that food safety deficiencies in slaughterhouses, which were defined as critical by the ministry and which could pose risks to human health, were often not corrected in a timely manner.

A brief comment on that, in addition to what you find here, would be that the program spends about \$10 million a year on inspections. We found that from a purely straightforward administrative point of view, they are administering that money quite well. Our concerns were more with the outcomes; in other words, in this particular case, where critical deficiencies were found to be deficient still on follow-up by the inspectors. In other words, the items are not being corrected, so the outcomes are of concern. The second one that we didn't mention here was, for example, on the fruit and vegetable side, where they had done an inspection and found 80 times the permitted level of pesticides, but by the time we completed the audit, which was at the end of March, no retailer or grower had been notified of this problem. So it is out-

come, but they are doing relatively well with the resources that they have.

At the Ministry of Transportation we found that road user safety was impaired because 30,000 drivers who were reported to have medical conditions that could have made it dangerous for them to operate vehicles were still allowed to drive. Some of these medical reports were as old as 1997.

Certain drivers' licences that had been suspended for impaired driving were revalidated solely as a result of administrative deficiencies. The situation here is that the police will stop a driver, identify the person as impaired and make an entry in the record that is entered by the ministry into the record. But then the administrative procedures require that the police confirm within seven days what action they are going to take, whether they are in fact going after the driver for being impaired or whether there are mitigating circumstances that they won't, or whatever. But if the police miss the seven days' deadline, then the process is that the licence is immediately reinstated or the suspension is lifted, whichever way you want to put it. That was the concern, that we found a number of drivers who had been stopped and were simply reinstated because the police did not provide the information in seven days.

Some drivers' road tests had been shortened below the minimum time prescribed by the ministry. We actually in this case stop-watched drivers, cars going out and coming back. In the tests that we conducted, they were not out for the required 20 minutes. We took into account, of course, the possibility that the driver made three major mistakes that would make them fail the licence test within five minutes, or something like that. That was taken into consideration. There were, of course, some of those, but there were also a number who passed. And there were other issues in there.

We also found that the Ministry of Transportation had mismanaged millions of dollars worth of consulting contracts, and we have quite a list in our report about some of the detail that we found in that case.

At the Ministry of Community and Social Services we found that there were well over 1,000 cases where women and children were turned away from shelters operated under the violence against women prevention program. As well, in many instances women and children were redirected to inappropriate accommodation in shelters for the homeless.

Also at that ministry, we found that funding for the needs of vulnerable individuals was provided without critical assessment of the quality and level of service provided. As well, we found cases of duplicate payments, overpayments and poorly timed payments. What we mean by "poorly timed" is that payments were made very late in the year, not allowing managers to adjust the program for the additional funds.

At the Ministry of the Attorney General we found that with approximately the same amount of funding received in 1991-92, Legal Aid Ontario is now providing only half the legal aid certificates it provided nine years ago; in fact, they were down to about a third in one of the last three years.

At the Ministry of Education we found that neither the ministry nor the school boards were able to determine if current programs and services delivered to many students with special needs actually met the needs of the students, were cost-effective and were of good quality.

At the Ministry of Health we found in many cases there was not sufficiently aggressive action taken to ensure that it was paying competitive prices for drugs under the Ontario drug benefit program, for assistive devices and home oxygen. We estimate that this cost taxpayers well over \$100 million. Some of the processes were competitive tendering. In some cases we were paying higher prices than Saskatchewan and Quebec, although we are a higher-volume consumer.

In our follow-up of the Family Responsibility Office, we found that the administration of that office continues to be hampered by poor information technology systems. For example, in 1994 we recommended that information technology support be improved. In 1996 the office agreed this was a "must do"; in fact, we have that in writing. However, information technology systems are still woefully inadequate for proper case management. A feasibility study for improvements to the management system and for better information technology support is only now underway.

In our follow-up of the highway maintenance program we found that the expected savings from the outsourcing of highway maintenance could not be demonstrated by a consulting firm that was hired for that purpose. In fact, the new management of the Ministry of Transportation agrees with us that it is now more important to move on and monitor and control performance of the contractors to make this outsourcing work.

In addition to instances where performance and results achieved needed improvement, my office also encountered instances where ministries lacked the information they needed for good decision-making. As I have emphasized in previous annual reports, good administration of public funds depends on good decisions that are based on good information. Let me highlight some of the instances where we reported on insufficient information in this report.

In our audit of the community reinvestment fund we found that the Ministry of Finance did not have empirical or analytical support for the savings targets imposed by

the province on municipalities in the local services realignment initiative. These savings targets were applied in a funding formula that was intended to ensure that the initiative was revenue-neutral. However, the use of the savings targets in the funding formula resulted in some municipalities enjoying windfall gains and other municipalities not receiving the funding required to achieve revenue neutrality.

1020

Although a total of \$1.8 billion has been paid by the Ministry of Finance out of the community reinvestment fund since 1998, these funds have not ensured the ongoing revenue neutrality of the local services realignment initiative for many municipalities; in fact, for all municipalities one way or the other. Some made gains and some had losses.

This is a growing problem, especially in those cases where program costs were frozen at the time the program was transferred to the municipalities and where services were subsequently improved by the municipalities. This committee, for example, dealt with one of these in the past, the ambulance services, which at the time of realignment did not necessarily meet the standard set and now, being transferred to the municipalities, it appears to be the municipalities' responsibility and cost if they want to improve the response times of the ambulance services. That's just one example that I know the committee dealt with at one stage at great length.

At the time of our audit, the Ministry of Transportation had opted to outsource driver testing without a completed business case. The ministry had also planned to spend \$101 million on computer systems without a sufficient strategic plan and without a proper business case. During our audit of the gasoline, fuel and tobacco taxes, we noted that the Ministry of Finance lacked the information and the supporting information technology systems necessary to ensure that all gasoline, fuel, and tobacco taxes owing were in fact declared and paid.

For instance, based on our limited testing of fuel and gasoline tax returns, we found 345 million litres, which represented approximately \$51 million in potential taxes, were not properly accounted for. What I mean by that is that it is imperative that on commodity taxes there is a reconciliation on a periodic basis of all the production, and then a determination of what of that production was actually sold and legitimately sold tax-exempt and what should have attracted taxes. These reconciliations were not prepared on a regular basis because, simply, the information technology was not there and the information was not there. So we found items simply where product was accounted for as produced and was not accounted for as to whether it was taxable or non-taxable.

The integrated justice project, a joint information technology initiative of the ministries of the Attorney General, correctional services, and the Solicitor General, was instituted in 1996 to improve the information flow in the justice system. We found that the project's original business case was based on an aggressive schedule and a best-case scenario. We found that the cost estimate for

this project has risen from \$180 million estimated in 1998 to \$359 million—in other words, doubled—by 2001. Over the same period, the benefits estimate has fallen from \$326 million to \$238 million, and a substantial amount of that \$238 million in benefits estimate is in question. We found that \$57 million of it, for example, is probably not achievable and that there continues to be disagreement over \$170 million of the \$238 million between the senior managers of the project and the senior management of the courts administration, because that \$170 million is supposed to be realized out of the courts administration.

In this year, we made 109 recommendations. Each of the ministries involved has made commitments to take corrective action based on our findings.

In addition, as required by the Audit Act—that's section 12(2)(a), I believe—I must bring to your attention a very serious matter regarding my office's access to information. For the first time since being appointed Provincial Auditor, I have to report an instance where a ministry hindered the audit process. Contrary to section 10 of the Audit Act, the then senior management of the Ministry of Transportation did not give my staff full access to pertinent files, deleted parts of documents provided to my staff and inhibited ministry staff from speaking freely with my staff. Subsequent to the completion of our audit, a new Minister of Transportation and a new Deputy Minister of Transportation were appointed, and I am pleased to note that they took immediate steps to ensure that this problem would not occur again in future.

Actually, let me expand on that a little bit. There were three major objectives; one is not completed yet. But the first item—and I think it was referred to by Minister Flaherty, the Deputy Premier, in the House—a protocol was established. This protocol covers the confidentiality of cabinet documents. What it did is, we used this case to work together with the secretary of cabinet to establish a protocol that put clear boundaries around the confidentiality of cabinet information. So I consider that a positive. That has now been achieved. The secretary of cabinet and the secretaries of subcommittees of cabinet, such as the Management Board of Cabinet, as well as the cabinet committee on privatization and SuperBuild, are aware of what information we have access to and what information can be severed out of the documents.

In a nutshell, what it is is that we have access to all submissions made to these committees and all decisions made by these committees. But we do not have access, and in fact did not want to have access, to the recommendations of the ministry or the recommendations of the minister as to what course of action should be followed, nor are we interested in taking a look at detailed cabinet decisions that took place on that. It would not be our role to do that, and that is fully acknowledged and accepted.

The second objective was achieved in co-operation with the work of the Ministry of Transportation itself, with the new minister and the new deputy minister, inasmuch as they have established—as the minister men-

tioned in his letter, which I've reprinted in the report—a code of conduct, and that clearly permits my office access to all information that we need to conduct our audits that is not covered by cabinet confidentiality. In other words, that protocol is now getting added, and just to update, I was informed earlier this week by the Deputy Minister of Transportation that this code of conduct has now been accepted government-wide. So I'm very pleased with these two developments.

The third development is still outstanding, and that is the Speaker's ruling and I don't want to presume on what the ruling is going to be. I should put on record that I'm encouraged by the Speaker's initial comments about re-establishing the right of access to information that officers of the Legislature, such as my office, should have. I think he stated that when the motion was made. He expressed a concern to the House, and I'm very encouraged by that.

That is the preliminary outcome of this particular concern. As I said, there were two kinds of documents in question: there were documents that were covered by cabinet confidentiality and there were also documents where we had problems of access and, most important in all of these cases, we had problems with timely access. In many cases we asked for information as far back as October and we still hadn't received the information by February, and that is not conducive to the efficient conduct of audit examinations by my office. This was actually one of the key reasons that I also made this public in spite of the corrective action that was taken, because the other issue is timeliness of information. If we let this go, if my office had let it go, it would be possible, for example, for a ministry to say to us, "We want to do an audit this year of a certain program, but, well, you can have the information about two years from now," or something like that. That would be an extreme case that has not happened, but it is of concern when we have to wait for four months for information that we know is available; you know, it's there but it's just not provided. So that was the issue.

I would like to conclude by stating that we were encouraged when amendments to the Audit Act, which my office has sought for over a decade, were promised in the April 2001 speech from the throne. These amendments were recently unanimously endorsed for the second time by the standing committee on public accounts—that is this committee—and I'm very happy and grateful for that. However, we are still waiting for legislative action on these amendments, which are essential for my office to serve the Legislature and, through it, the people of Ontario more effectively.

That concludes my statement today.

1030

The Chair: OK, I'll throw it open for comments and questions. We can either go in rotation or whatever.

Mr Raminder Gill (Bramalea-Gore-Malton-Springdale): A couple of questions. Similar difficulties go on every year, with a lot of repetition of the frustration you might be going through. Have things improved any, or

are they the same as or worse than? What is your opinion?

Mr Peters: In a sense you're quite right that these things are going on all the time, and most of the time, in virtually all cases but this one, we were able to resolve the issues. The final instance is normally when the matter is brought to my personal attention, and then the deputy minister of the particular ministry and I meet and resolve the issue, and that has happened. This year it happened in two other audits and it was resolved and we got the information on time.

In the MTO case it just was not resolved. The deputy minister was adamant that they were following the right course of action by not providing us with access to this information. To what extent she knew what was going on at the ground level—because my staff was dealing with up to the ADM level, but certainly the assistant deputy ministers were fully aware of every detail because we raised it to that level. When I met with the deputy, we just highlighted what was there. But this is the first case where a deputy minister was just adamant that we would not get it and that's why I had to raise it.

Mr Gill: I just want to get some more clarification on your concerns about timeliness. I know in some cases you said that you asked for something in October and it took until February, and maybe you still didn't get it. Is this procrastination? Is it something they don't have and they're trying to get information? Do they keep you updated, that, "We don't have it but it's coming"?

Mr Peters: There are two things. One is, at certain levels in the government there's a mistaken belief that you can somehow orchestrate the audit or manage the audit process in some way. That certainly seems to be behind it at times.

The second approach—and that's why we are particularly concerned and have focused also on cabinet confidentiality. There was a great amount of uncertainty as to what was cabinet-confidential and what was not. It has always been the approach of my office, for example, that if you make a business decision and you support that business decision with a business case, that business case is accessible by my office for assessment: how it was done, whether they considered all alternatives and this sort of matter. But what happens to that business case if it is attached to the cabinet submission? Does it now become a cabinet document? That was where very often there was a grey area, and this was the area most often—not in all cases, but it often happened—that the deputy minister and I resolved in discussion. In this case, that was not resolved. So that is the other reason why it is not there.

The third part that can happen, and has happened, is that it is done as a cover-up. What I mean by that, for example, is that we expected the business case, and management knew they hadn't prepared a business case of sufficient quality to stand up to scrutiny. Therefore, we may simply be told, "You can't have it," because we know we are not dealing with a document that would

stand the scrutiny of an audit. So that would be the other reason it can occur that it's not given to us.

Sometimes it gets massively confusing. We can be told by lower-level staff that they have seen a business case and senior staff says, "No, there isn't one," or vice versa. Then we have to proceed to the highest level. I hope that answers your question.

Mr Bruce Crozier (Essex): I just wanted to make a further comment on this. I would hope, through the efforts of the Provincial Auditor in this case, that the message gets through to ministers. You say there is now a protocol in place, and I'm pleased to hear that. Not being a lawyer, I've been told, though, that ignorance of the law is no defence. In this case we have seen that the defence seems to be, "Well, I didn't know and nobody told me." We go back to the old Truman thing, "The buck stops here." I hope through this effort that other ministers in this government or any other government that may follow understand that they are responsible and that in those cases perhaps it's incumbent upon assistant deputy ministers and deputy ministers to keep their ministers briefed on these kinds of day-to-day issues. So I hope through your efforts, Auditor, something like this won't happen in the future.

Ms Shelley Martel (Nickel Belt): I wanted to pursue the line of questioning on the documents. I'm looking at page 249 in the MTO section. This is under "Alternative Service Delivery," where you say, "Although we requested that the ministry provide us with a copy of the parts of the business case that were completed, the submission made to the cabinet committee on privatization and SuperBuild, and the committee's decision on the ministry's recommended option, the ministry only provided us with partial information and did so only after our audit was completed." Does this come under the area of the category you just described as a grey area in determining what is confidential and what is not?

Mr Peters: That was in fact part of the reason advanced as to why it was done. This is actually a very good case of what I'm referring to with timely documentation. We have so much time to do an audit. If we don't complete our audit work, the field work, by March 31, we will not be able to report to the Legislature on a timely basis. So we must insist that information is provided to meet the deadline, which is actually imposed by the Audit Act. The Audit Act says that we must report prior to December 31. After we complete the field work, there is of course quite a bit of work we have to do, such as file review; reviewing the audit evidence to report the findings that we have; the drafting of the report. As you know also, since I've become Provincial Auditor, we have instituted a methodology where the ministries have a chance to respond. So this information would be available. It would be known to the ministry that we were going to say that, in good time, as we proceed in clearing the report. This would be mostly a case of timeliness but, also, this one particularly had some concern about cabinet documents.

What in fact happened in this case is that there were two cabinet committees involved with this particular situation. The first submission was made to the Management Board of Cabinet, and the Management Board of Cabinet referred the matter to the cabinet committee on privatization and SuperBuild, and there was a certain amount of discrepancy between the information demands of those two committees. So there was a certain lack of clarity within the ministry itself, the Management Board of Cabinet committee asking for more information but then concluding that the matter should be dealt with by another cabinet committee.

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When the ministry met with that other cabinet committee, their list for information was not as extensive. So there was a certain amount of confusion, I think, as to what information should be proceeded with and should not be proceeded with. As we point out in the report, the ministry paid a consultant over \$1 million to prepare a business case for alternative service delivery. But we were informed by the consultant that although the business case had been started and they had incurred quite a bit of money, the ministry then requested that it not be completed. That's what we were told by the partner in charge of that particular consulting assignment. We couldn't get an answer as to why this decision not to complete the business case was taken. The best we could come up with was that there may have been confusion because of the information requests by two cabinet committees.

Ms Martel: Just to follow up so that I'm clear, was this the delay you reference from October to February? And was the information ever received or still not received by February, at the time that you had to complete the audit?

Mr Peters: There are certain pieces of information, and I don't have in my head which ones they were specifically—but because we had to conclude the audit and we had sufficient evidence to make the observations and recommendations that we did make, we simply stopped asking for the information. We just said, "Look, enough is enough. We have the information that is required to report to the Legislature on this particular situation." We did not then pursue information that we did not have in good time for the audit.

Ms Martel: OK. Can I ask a second question on this next set of documents?

The Chair: Sure.

Ms Martel: This is on page 251, with respect to information technology. At the top of the page you said, "For audit purposes, we requested access to the ministry's strategic plans and business case for renewing the legacy system," which is their computer system, "but the ministry would not provide us with that information. In fact, even after repeated requests on our part, the ministry only provided us with incomplete documents that were missing pages and attachments." My question is, does this come under your category of cover-up?

Mr Peters: We have had assurance that the missing pages and attachments were the ones that were covered by the verbal assurance, and later on by a letter in writing, briefly outlining that these were deletions in accordance with a new protocol. In other words, we were told they were deletions because they contained recommendations by the minister, or by the ministry in this particular case, and that's why the deletion occurred. It fell into both categories.

Ms Martel: Can I back up? I thought the protocol was established after the audit was complete.

Mr Peters: It was after the audit was complete.

Ms Martel: So at the time that you went with this audit, you still didn't have this information? So what you're telling us—

Mr Peters: That's right.

Ms Martel: —is that subsequently, after the protocol was established with the new deputy and the new minister, you were told that the information that had been deleted was information that included the previous minister's recommendation?

Mr Peters: That's right. In other words, we don't know exactly what the recommendations were or who approved them or whatever, but you're absolutely right: the protocol was established in June 2001 and then, retroactively, the new deputy minister applied the protocol to this information but it was just too late for us.

Ms Martel: How convenient. Can I ask one other question on this?

The Chair: OK.

Ms Martel: Are there any other areas in MTO with respect to documents that were missing or altered, outside of those two?

Mr Peters: I cannot answer that question because there were documents—outside of those two? Yes, there were two that I can—sorry. There's at least one that I can recall.

Ms Martel: One more?

Mr Peters: Yes.

Ms Martel: Can you give us the information on that one too, please?

Mr Peters: Well, I'm a little bit in the corner because it's not in my report. Here it goes. We still are not sure whether the ministry actually maintains a master list of consulting contracts. We had asked for a master list because for audit purposes we normally do our selection of auditing consultant contracts from a master list that ministries maintain of which consulting contracts they let go and for how much. We had trouble obtaining a complete list. We were given a list, but in our audit we found out that it was incomplete. We found consulting contracts that were not on the list. So that was one area where we had concern.

The other area, the second one, and I want to answer your question as factually as I can: in certain cases, parts of the terms of reference of consulting contracts were deleted, so we could not assess fully what the entire terms of reference of some of these consulting contracts were.

Ms Martel: Are those the contracts you refer to on the next page?

Mr Peters: That's right. On the same page, actually. We go into it under "Consulting Services."

The Chair: OK. Let's go on and we'll get back to that if you want to.

Can I just ask one very quick question? You made a comment in your opening presentation that sometimes double payments were made. After you found that out, was the second payment in effect received back by the ministry?

Mr Toby Barrett (Haldimand-Norfolk-Brant): You're the Chair.

The Chair: I just wanted to make sure that I understood what he was saying.

Interjection.

Mr Peters: No, I'll answer the question. In this particular case, recovery was not possible from one of the two parties.

The Chair: All right.

Mrs Julia Munro (York North): I want to ask you about this whole business of business case, because in the comments that you make you refer to a completed business case, a proper business case, and in here you refer to an incomplete one and so forth. You also made reference to the problem you have in terms of the grey area of, is a business case part of a cabinet submission and so forth? I really want to ask you about what constitutes a business case and who determines what it is and whether it's complete or it's appropriate or determines those standards?

Mr Peters: The standards are determined by Management Board of Cabinet directives. They are established in directives that are given to the ministries. In this particular case they are contained in the Management Board of Cabinet directive on alternate service delivery. They are fairly extensive, and there's also guidance provided to the ministry as to what constitutes a business case, what should be looked for. In our audit we actually use that as the fundamental criteria to evaluate the quality of a business case that has been provided. That standard is available.

Mrs Munro: Actually, I remember when as a committee we dealt with that issue. I guess what I really wanted to know was whether or not that was entirely the reference you're making when you make these assessments on whether they're proper or completed or whatever. It would always be within the context of that Management Board directive?

Mr Peters: Yes, and there would be one step beyond it. For example, in the case at the Ministry of Transportation, where they engaged a consultant to develop the business case, we certainly had discussions with that consultant as to the quality of the business case, and it was actually the consultant, as I mentioned, the partner, who informed us that he considered the case incomplete at that stage.

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Mrs Munro: Would there always be agreement, then, on the interpretation of those Management Board directives?

Mr Peters: Certainly in all directives they cannot cover 100% of all cases. There's a certain amount of leeway, but there are minimum standards that we do insist on. For example, proper costing of alternate service delivery would be one. A second standard that we don't want to waver from is where there are legislative objectives established to ensure that the alternate service delivery that is done safeguards the objectives that were spelled out in the legislation for that particular program. Even there, there may be some discussion as to how well it is done. Do you always shoot for 100% or do you think 80% at one stage is OK? There's a certain amount of judgment involved, but where the case does fall short of even the 80% or lower, then we have concerns and we act, within the confines of the Audit Act.

Mrs Munro: Because this is a relatively new process in terms of the Management Board directive, and I recall when we were waiting for it, I just wonder whether or not in the work you have done so far, have you seen a trend in terms of a greater understanding of what those directives are asking individual ministries to do? The whole idea of them, as I recall from our discussions about a year ago, was in fact to be able to make crystal clear to both the ministry and you in your role the transparency of having a business case that would stand this kind of scrutiny. Do you see some really good examples? Do you see some areas where there's a better understanding of what those requirements are within that directive?

Mr Peters: There are a number of areas. There are really two forces at work, and I would like to explain that. We find the directives very good. Even previous to alternate service delivery, there were directives out on how to contract, how to sign any normal supply contracts. As when we discussed the Andersen contract before, we mentioned there was an initial set of common purpose procurement directives that was issued, and as a result of the Andersen work, one of the positive sides was that it caused a significant revision of these directives. The directives themselves are actually living documents and are improved as people are going along, and our audit work can also result in them being improved.

The second point is the enforcement of these directives, and that really takes two parties to be involved; one is what we would call the central agencies. For example, what steps does Management Board Secretariat, which is responsible for the directives, take to ensure that the ministries are adhering to them? The concern there is that that should be virtually an ongoing process internally, and hopefully the more solid establishment that has now been made of the internal audit function will take up that role, as well as management. But over the last few years, at least since I've become Provincial Auditor, the Management Board Secretariat has advised us very often that they rely really on our work to see how well the directives are being followed at the ministries.

To my mind, that is not a satisfactory management process. I would expect a management process to be in place so that the directives that are issued by cabinet are actually followed in the ministries on all transactions and that they don't rely on the 11 programs that we audit which involve them. The point is that in the audits we have had, we have found problems in adherence to these directives. Clearly, MTO is a case in point. In contracting for consulting services, they were not followed. They were there, they're good; they were not being followed. In making business case strategic plans, there are directives on information technology acquisition. They were not being followed. Because we're using this as criteria, it comes out worse than it should be, but the only preventive steps that can be taken are by actually instructing and putting a mechanism in place that ensures that if Management Board of Cabinet issues a directive, it is followed throughout the piece.

Mrs Munro: One more quick question?

The Chair: One more.

Mrs Munro: This raises for me the issue that you referenced earlier about the grey area and the establishment of the protocol that has come about. With regard to a business case being part of a cabinet submission—and I guess my question is one related more to timing than anything else—when you are going along to look at the work of a particular ministry, what would normally be the timing? When you come along, isn't that afterwards and therefore that business case plan would have already gone through the process? Would you not be looking at things afterwards as opposed to their being part of a submission, ie, beforehand?

Mr Peters: Yes. Normally we look after what has happened. We would not ask a ministry or in fact criticize a ministry—I hate to use that word—or comment on a ministry's action with regard to a business case that is currently being developed. In fact, that would be counterproductive to our independence, because it would involve us in the management process. In this case, there were business cases that were developed.

For example, to come back for a moment to the MTO business case, here we had the situation where in fact they had gone forward with what we were told was a business case to Management Board of Cabinet. They had gone to one committee. What do you do if that committee says, "We don't want to deal with that particular case. We want you to go to the cabinet committee on privatization and SuperBuild"? We did our assessment essentially on the information that was prepared for Management Board of Cabinet to make that decision.

Mrs Tina R. Molinari (Thornhill): On that very point, you made reference to the situation with the strategic plan and the business plan and your recommendation that they should stand alone, but since they are submitted as part of a cabinet submission, would they not, then, fall under the protocol that was established?

Mr Peters: Yes, and under the protocol we would have full access to them, because they would be part of the submission to cabinet. The only part that would be

severed out under the protocol, can be severed out, but only by the office of the secretary of cabinet, is those parts of the documents that contain the one or two lines where the minister says, "I favour this particular option in the business case" or where the ministry itself or the deputy minister says, "The favoured option is this one." We don't want to second-guess that part. That can be severed out, but otherwise we expect the business case to stand on its own.

Mrs Molinari: You also expressed concern about information not being forthcoming. At the end of your audit, did you receive all the information you requested at that point?

Mr Peters: Not by the end of the audit. What I mean by that is that the field work was completed by the end of March. The protocol was put in place about three months later, after all the discussion had taken place and the toing and froing. At that point, yes, we received additional information. As far as cabinet submission documents were concerned, yes, we received them, although there were other documents we didn't ask for any more; it was just too late in the process.

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Mrs Molinari: Certainly the Premier and the government appreciate the work you do, and the recommendations you make in your report are helpful in determining that value-for-dollar process.

You indicated some of the information that was given to you on a matter from October to February, and I'm hearing that there were isolated situations like that; it wasn't all of the information that you were requesting that was delayed for that process. It's my understanding as well that the reason for that was because of the determination of whether or not it's information that was protected under the protocol or information they were able to freely give you access to. So I think that, given those situations, I see that in the future things like that would be corrected with the protocol that's now been put in place.

The other question I have is around the whole process of the provincial audit and what the audit is to determine, whether or not the government is in fact spending taxpayers' money efficiently, effectively and the value for dollar. But it's also my understanding that that audit would not touch on policy decisions that the government would make and the direction of policy; it's more of a value-for-dollar audit. Am I correct in that understanding?

Mr Peters: Yes. If I may comment on that, as far as minutes of cabinet, for example, we would not audit what we call big-P government policy. For example, the cabinet decision as to how to handle the communication strategy for a certain program that they come forward with or anything like that would certainly not be of interest to us.

In our audit, we are limiting ourselves strictly to business decisions and administrative decisions. We certainly obey totally and have, I think, a very good record of not commenting on legislative policies. But, for example, a

policy decision to outsource something is an administrative decision, because it is a decision as to how to deliver a particular legislated service, and therefore we will be able to question the administrative or business decision to outsource.

In fact, that goes hand in hand with a comment that I have made in my reports now for the last nine years. I've encouraged the government to create a process whereby every program is evaluated: whether it can continue as it is delivered at the moment, where it can be modified or should be modified to create better service delivery, where the better service delivery can be achieved through outsourcing, or where a government program should be discontinued simply because it's inefficient or uneconomical. That is the extent to which I can comment on it: whether it's inefficient or uneconomical the way it is being delivered. I cannot comment on the program itself.

If I may, I use a little narrative example that I've used all the time. If the government of the day decided to pay every Ontarian who owns a house \$100 for digging a five-foot hole in their backyard, that would be a policy decision. I would be entitled to audit, though, whether the \$100 is being paid to Ontarians who don't dig the five-foot hole, who only dig a three-foot hole or who don't dig a hole at all or collect double money for digging two holes. That's sort of where we make that distinction. It's the government's own decision, but how service is delivered is certainly something we can audit.

Mrs Molinari: I'm pleased to hear that, because you started off your comments by saying that the communication strategies were things you didn't comment on, but then you went on to say that in fact policy direction and policy decisions are not areas where the auditor would give an opinion; only if it's implemented in a way that it's value-for-dollar and implemented in the way it was intended.

Mr Peters: That's right, or it's not being achieved; economy and efficiency are not achieved or measures to report on the effectiveness are not sufficiently in place. That's in accordance with section 12 of the Audit Act.

Mr Barrett: I hear what you're saying on the problems getting this information. You mentioned the Ministry of Transportation. I as an MPP have difficulty getting information as well, and my staff have difficulty getting information. It's very important that all these dollar figures and what have you are provided to you.

My question is, did you never get the information, and does that mean you've presented a report without the objective facts that you needed, or did you get the information? I don't have the details on this.

Mr Peters: It's a fair question and a very legitimate one; a good question. My answer to that is, what we have in chapter 3.11 of our annual report is based on the information that we did receive, and we have sufficient audit evidence to make the observations that we made and to make the recommendations we made. In that regard, we are satisfied. I can give that degree of assurance to you, the Legislature and to this committee,

that what we have said is based on evidence that we did receive.

Mr Barrett: So ultimately you did receive the necessary information?

Mr Peters: We did receive the information that we based our conclusions on. For example, on page 251 we are saying in the third paragraph from the top, "Because the ministry did not provide the necessary information on a timely enough basis for this annual report, we cannot provide assurance that the proposed legacy system renewal"—that's the \$101-million one—"was based on a properly completed business case and strategic plan. We will follow up on the ministry's efforts to develop and implement the proposed legacy system renewal at an appropriate time."

In other words, where we did not receive the information, we indicated this. In audit language, that is called "a scope limitation." We indicated that scope limitation in our report. Where we don't have this kind of comment, we ultimately received the information; where we did not, we made the comment.

Mr Barrett: So are you satisfied now that you have all the information you need? Secondly, next year when you're looking at dollar figures, do you feel this is not going to happen again? Has this been fixed? I heard mention of the code of conduct. Is that going to prevent this from happening again?

Mr Peters: I am very encouraged by the code of conduct, and its implementation, I trust, will remedy the situation.

Mr Barrett: Just a last point: I was intrigued with digging holes in the backyard at five feet or six feet. I understand some government grants go to people who are deceased. I'm not sure if you're referring to that. I suppose they'll need a subsidy to dig the grave.

Mr Peters: I was totally hypothetical.

The Chair: Some of the people who received \$200 were dead, weren't they, a couple of years ago?

Mr Barrett: They had to bury them.

Mr Richard Patten (Ottawa Centre): I have actually a specific question, on page 31, the animal disposal industry. It's a question related to your function somewhat. I notice that the European Common Market banned any use of animal carcass in any additives for other animals or for consumption; the standard is zero. What is the case here in Ontario, where you can add dead meat, literally, to animal feed or pet food? The reason I ask the question is that if the audit is to ensure that the production of food is safe for us—the New England Journal of Medicine about two months ago, and it's kind of scary, suggested that the use of antibiotics and hormonal growth additives in meat etc is a pass-through, that we are eating this and it's affecting human beings in terms of lowering their resistance to antibodies for us. It's kind of a deeper question. As auditors, when you look at some of these things, you're auditing those things, but you haven't made any comment related to the use of dead meat. In other words, cows may be eating other dead cows. Is that not correct?

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Mr Peters: That could happen.

Mr Patten: That could happen. So that wouldn't concern the auditors? Would you consider that to be a policy statement and this is the thing we should be asking the ministry, then?

Mr Peters: Yes, it would be a good question for the ministry. As we point out on that page, the Dead Animal Disposal Act is designed to ensure that only meat from healthy livestock enters the food chain. The broad interpretation would certainly be that that's all entry points into the food chain.

Mr Patten: My understanding is that there's a 25% admissible factor in dead cows that have not been part of being sold retail to humans, but it can show up again by virtue of part of that being fed to other cows that in turn are approved and considered to be safe. So there's a loop in that chain that, to me, is disturbing, based on some of the evidence I've researched. But I have to ask that of the ministry, then.

Mr Peters: We comment on this on page 32, for example, where we say, "Ministry policy allows producers to transport deadstock without a collector's licence or a vehicle permit in certain areas of the province. We were informed that such transportation was being permitted because depressed prices for animal disposal products made it no longer profitable for collectors in this region to do free pickups. Nevertheless," and that's the conclusion of my office, "such practices are contrary to current legislation."

Mr Patten: OK. Even if that is done well, this is still re-entering the food chain.

Mr Peters: That's right. The ministry responded, if you look at page 33. It said, "The current legislation and regulations pertaining to transportation and licensing conditions for livestock disposal, including vehicle inspection, are being examined as part of a broader review of all the food safety legislation in Ontario." So that's one positive step that they were—

Mr Patten: But they could do that without addressing the actual use of dead cows showing up again in animal meal for other cows.

Mr Peters: It would be speculation. That would be a good question for the ministry to respond to.

Mr Patten: OK. It's worrisome.

Mr Crozier: Auditor, I'd like to refer to the statement on the audit, on page 348, where you make reference to Canadian generally accepted auditing standards in the way you conduct your audit. Then you give your opinion that the results—I think you say "in all material respects"—are in accordance with accounting principles recommended for governments by the Canadian Institute of Chartered Accountants. Then you go on to report on page 349 about the government's accounting for supplemental federal health care transfers. You have a heading that says "Need for Greater Consistency and Transparency in Ontario's Accounting." You make some comments on accounting for tangible assets. My question is, do you feel the government has accepted the recom-

mendations for governments by the Canadian Institute of Chartered Accountants or does the government have a way to go?

Mr Peters: In most cases, I think the performance of Ontario since 1994 in accepting these standards has been quite good. But there are areas where the standards with regard to the recognition of tangible capital assets, which came out in 1997 and have been adopted now by a significant majority of governments, still have to be worked on by the province of Ontario. That is not in place.

That recommendation was made also by the Ontario Financial Review Commission, which was established by the previous Minister of Finance and tabled by the current Minister of Finance, who stated that the government should take all the steps necessary not only to implement the existing standard with regard to tangible capital assets, but also to immediately implement any revisions to that standard as they come out.

Largely, maybe by way of a little bit of background, the public sector accounting board is currently working on a revised model of financial reporting for governments. The difficulty that has arisen is that some governments record on an expense basis. In other words, they will capitalize, if you will, or defer, the cost acquisition of tangible capital costs, and amortize this cost in a year, while other governments—Ontario is one of them—expense all capital acquisitions when they're made. There are differences across the board. Ontario and the federal government are certainly the two major governments that still have to work on that. I think the federal government is going to come out in the current year. I'm not aware of the timetable of the provincial government.

Mr Crozier: Just one supplementary on the tangible capital assets, and we'll use school boards as an example, where the government used to provide direct funding for the building of a school and now school boards arrange the funding. My question is, does the provincial government then guarantee the payment for those schools and, if so, do you audit and report on that anywhere?

Mr Peters: If it takes the form of—

Mr Crozier: Off-book financing, I guess.

Mr Peters: I know what you're saying—as they say in German, "Nightingale, I hear your footsteps"—on this one. Where it is a formal guarantee, then of course it would be reflected in the contingency section of the public accounts. Where it is just a commitment, there are shades of commitments and we do a careful assessment as to how they would work. One of the problems we have with the school board accounting and have had virtually all along, and it links to your first question, is that as long as the government does not recognize tangible capital assets—if we were to include, for example, the school board debt in the books of the province—we get only one side of the picture because we would set up a big liability, but there's no way for the government to recognize the assets, namely, the schools.

I am of the view that what we are currently presenting is fair inasmuch as it shows the grants that have been

paid by the government to organizations outside the reporting entity, because we don't include the school boards. I still think that is something that deserves a watching brief, because once we recognize tangible capital assets, the landscape in that regard may change.

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Ms Martel: I have a couple of more questions with respect to MTO. By my read, you've given us four examples this morning of where the ministry either didn't provide you with information, didn't provide it in a timely manner or altered it. I'm looking at the privatization of driver's exams; the information with respect to the business plan for the computer system; the third example, if the ministry had a master list of consulting contracts; and fourth, details for RFPs missing.

I would find it particularly useful if you could provide this committee with a memo or a letter from yourself to us outlining those examples and any other that may be involved with MTO and give us some more specific details with respect to what was requested, whether or not you ever received the information that was requested, those cases where that information is still outstanding, and any details with respect to information that may have been altered, so that we clearly understand what information you asked for that you finally did get and what you haven't got, what appeared to be altered and what you were never given because it then came under this protocol. I would find it particularly useful if you could provide that to members of this committee.

The Chair: Do you have any comments, Erik?

Mr Peters: Yes. Unfortunately I'm prevented from doing that by the Audit Act, section 19. I have—

Ms Martel: You gave most of us that information on the record this morning.

Mr Peters: Oh, I gave you it, but not lists of details or whatever. I talked generically about the kind of information, and I also referred specifically to areas where we mentioned the information in the report. I don't think I can go beyond that. I would have to carefully analyze what I'm allowed to do under section 19 of the Audit Act, which deals with presentation of working papers to the committee.

Ms Martel: OK. That would be useful, so that—

The Chair: So what exactly are you asking for, and what can you deliver? I just want to have it clear in my own mind.

Mr Peters: What I'm actually saying is I can't deliver beyond what I did today.

Ms Martel: You gave us four examples. Are there others or did you give all of them today?

Mr Peters: Offhand, I can't answer that question. I would have to look into the record.

Ms Martel: If you can check that. I would want to be clear, with each of the examples you've provided, what it was in a general sense that you asked for, whether it was a business case—I think in example 3 it was the master list of consulting contracts—in the four cases you've outlined, if in fact you actually did get the information and when, and whether or not in some of these cases, you

never have. For example, we didn't finish asking about the master list of consulting contracts. You said you had certainly asked for it and you found out you obviously didn't have all the information, because when you looked at contracts awarded to people, you found they were not on the list. So you had to assume that something else existed. I don't know whether or not, even under this new minister, you now have a master list that you feel confident is the master list.

The Chair: Do you have a master list?

Mr Peters: Maybe my answer lacked clarity. What I said was that one of the criteria we audited against was the existence of a master list. We were not given one, but it is also very possible that there isn't one. There's a possibility that a master list as such does not exist, so I would have trouble categorizing that as information we did not get. What we did get was a list of consulting contracts and we found the list incomplete.

The Chair: Because you found other contracts that weren't referred to on the list.

Mr Peters: We found other contracts when we did the audit work, so when we then raised the question of the master list, we were told—I would have to paraphrase what my people were told, but it led to the conclusion on our part that we were left in doubt whether one actually existed or whether we were denied access. We were not sure in the end.

The Chair: Do you have any doubts now? Do you have a master list or not?

Mr Peters: We don't have a master list.

The Chair: OK.

Ms Martel: You have some list.

Mr Peters: We have some list, but we don't have a master list. That's where there is difficulty in answering your question. But not having a master list may be just an administrative failing. Whether that is a reportable item to this committee is then a judgment that we would have to make as auditors, whether that, in light of other findings, really—it's the threshold that it should be raised with the committee.

Ms Martel: I think I understand you. I have some difficulty understanding that you have a list, and you're not sure it's a complete list, though you know it's not because there are other names on it that you subsequently found, so MTO obviously gave you something and it was not complete.

Mr Peters: When we pointed out that we had another one, they added it to the list.

Ms Martel: So if you found some more names, they'd add them too. Is that what you're saying?

Mr Peters: I presume that would be the case if we found more.

Ms Martel: That's ridiculous.

The Chair: Isn't this required according to their business plan? Does each ministry have a master list of consultants that it deals with according to their business plans?

Mr Peters: It is a standard that we would like to have followed, but some ministries do and some ministries don't.

The Chair: I understand that. Go ahead.

Ms Martel: If you could provide to us what you think you can with respect to this issue about information, that would be useful.

Mr Peters: I'll take it under advisement, but it's a very careful line I have to tread in terms of providing you with working papers. It was just one additional example that I thought I would put forward.

Ms Martel: I just have a couple of questions on the consultants from MTO. On page 251, you said, "We examined a sample of assignments for consulting services and found that the ministry often disregarded Management Board of Cabinet directives and ministry policies and procedures for the acquisition of consulting services." You did a sample from 1998-99 fiscal year, \$27 million for consulting services. Can you give the committee an idea of what your sample included—numbers?

Mr Peters: The sample size?

Ms Martel: Yes.

Mr Peters: Normally we don't provide that information. I can give you assurance that what you find in our report is supported by audit evidence that we found.

Ms Martel: Of the sample that you looked at, can you tell us if the majority were in compliance with Management Board directives or not?

Mr Peters: We are saying they "often disregarded." I would say that our sample led us to the conclusion that the majority were not.

Ms Martel: The first point: \$4.5 million worth of contracts "where the ministry hired consultants either with no justification on file of the need for the assignment or with justification that was prepared after the contracts were signed." Do you have some idea of how long after the contracts were signed that justification for them was actually provided?

Mr Peters: There is, later on, one case where I believe we say the period was eight months. Let me just look for a moment where that is—at the moment I can't lay my hands on where that is, but I thought one was as much as—

Ms Martel: The eight-month time lag, was that the exception or the norm?

Mr Peters: That would have been an exception, I would think.

Ms Martel: For the balance, was it several weeks, several months or did it vary?

Mr Peters: We didn't measure it. The standard we followed was that you should have justification for engaging a consultant on file before you sign a contract. So how much later they did it became almost a moot point. It was just not done at the time the contract was signed or, in some cases—oh, I just found it, "Without a written contract in place, the ministry engaged consultants for over \$1 million. For one of these engagements,

work began eight months prior to the date the contract was signed."

Ms Martel: For the \$4.5 million worth of contracts, are you permitted to tell us how many contracts that included?

Mr Peters: How many individual contracts?

Ms Martel: Yes.

Mr Peters: I cannot. We didn't put it in. It's the total amount.

Ms Martel: On the next page, the second-last bullet point says, "We could not determine the propriety of ministry payments to consultants. For instance, the ministry had altered a consultant's invoice totalling \$234,000 by recording the amount as paid against another contract with the same consultant and indicating that the work was done during a different time period." Was that an exception, or how many cases did you find that the ministry had altered invoices?

Mr Peters: I think I would prefer that these questions were asked of the ministry.

1130

Ms Martel: You haven't had much luck getting information from them. I don't know that we're going to.

Mr Peters: It will probably work. It is a similar case, for example, to where we reported on quality of water deficiency where we couldn't name the municipalities that were in default. It was the ministry that had the responsibility of doing that. The ministry would know, because all our reports are provided to the ministry for factual clearance, and so they agreed with it. I would really prefer, in that particular case, if you wouldn't mind raising that with the ministry.

Ms Martel: One final question, a general one. I think you said, in response to an earlier question, that the directives for consulting contracts are clear and complete.

Mr Peters: Yes.

Ms Martel: There are a number of examples here, frankly, that are just outrageous. What was going on at the MTO with respect to consulting services? If the directives are clear, complete and in place, why do we see a consistent pattern of abuse of the guidelines and the ministry doing whatever it wanted with respect to consulting services?

Mr Peters: I have to stick to what we said. We found that the ministry often disregarded the directives. The motivation is a question they may have to answer. What I can also say is what the ministry responded to us, on page 253:

"The ministry is taking steps (beginning in July 2001) to improve its procurement and consultant evaluation processes in accordance with the Provincial Auditor's recommendations. These steps include:

"requiring staff to attend training on the improvements to the consultant procurement and evaluation processes;

"monitoring consultant acquisition processes to ensure Management Board of Cabinet directives and guidelines are strictly adhered to prior to the actual acquisition of consulting services;

“monitoring consultant performance/evaluations during the contract period and maintaining this information in a central repository for future reference.”

That may be your master list.

Ms Martel: But these requirements were in place before July 2001. The ministry is not following them. Isn't that the point?

Mr Peters: They weren't at the time. That's why we reported it here.

The Chair: Could I just ask a very general question that we sometimes get from the public? I understand there are 25 ministries and about 130 or 140 different programs. How do you select annually the 11 or 12 programs that you actually audit? How is that done?

Mr Peters: We maintain something that we call an audit universe, which is essentially a listing of all government programs that are being delivered. It's a brief list.

The Chair: Would you agree that it's about 140—in that neighbourhood?

Mr Peters: I don't have the number in my head. I suspect it's actually higher than that, because there are programs and activities etc.

We maintain that list, and we go through that list annually to determine, based on a series of risk factors, whether this particular program should receive a high, a medium or a low audit priority. In other words, a high would be five years or less audit attention.

The Chair: Since you last audited it?

Mr Peters: That's right.

The Chair: I see. OK.

Mr Peters: A medium would be around five years, and a low would allow a little latitude. It could be more than five years that we go into it.

We describe the risk factors in our report. Some of them are the amount of money that is being spent by the program, the previous audit reports as to what was found either by us or others or consultants, management changes, changes in legislation, changes in objectives of the program that were brought in by the Legislature—factors like that. In total there are 18; I won't bore you by listing them all. We go against these, and from these the portfolio teams—as you know, we are organized into portfolios—make recommendations to the assistant Provincial Auditor and me as to where they stand and what has fallen out of the process as audit candidates in the upcoming year. That's fundamentally how we make our selection. Then that is weighed off against resource constraints. Incidentally, public safety is one of the risk factors that I should mention as well.

The Chair: OK, but just so I'm clear, you do about 11 a year. That's what you've done in the last three or four years.

Mr Peters: That's what we're down to now.

The Chair: If there are 130 programs out there, obviously some programs never get audited, because you wouldn't be able to get to them. Even if you did them all sequentially, you'd only get to them about once every 10 or 11 years.

Mr Peters: That is right, but that is in all cases based on the risk assessment. We used to be able to do a lot more, but with the current resources we are restricted to about that number. So we have to deal with that, balancing the resources. I think we had a lengthy discussion before this committee about the resources and that I'm funded at about one third the level of other legislative auditors.

The Chair: OK. Mr Barrett?

Mr Barrett: Mr Peters, I'm very pleased that you have yet again taken a look at special education in the school system. If I'm not mistaken, I think it was maybe in 1994 that you took a look at special education.

Mr Peters: That's right—in 1993; you're in the right range.

Mr Barrett: I do remember that report. This was before I was elected. But when I was elected, I had an opportunity, in part from information I had from your report, to talk to at least one school board in my area. At that time the concern seemed to be that the money directed to school boards for special education seemed to be going into a general pool. The one board I spoke with seemed to be unclear whether that money from the provincial government was actually being spent on special education or whether it was going to buy football equipment, for example—my memory fails me.

But I guess my question is, in your opinion—this is at least your second review of special education—has that kind of confusion, if that was the case back in 1993, been resolved? The reason I'm also concerned about this is, first of all, it's very important for those of us, the big people in this room, to be looking after these young people who have special needs and certain disabilities. Secondly, the budget for special education has increased by 17% since the 1998-99 budget year. We spend about \$1.37 billion on special education. I'm assuming it's not being directed into other purposes; I have that confidence, but I would like to ask that question. Maybe I was off base a number of years ago with my concerns. I don't know whether it was your concern that some of the money maybe was going into a never-never land and being used for other purposes back then. My concern is, what is our progress since then?

Mr Peters: There are two points I would like to make in response. Firstly, we have taken a very unusual step in this year's report on special education, inasmuch as we reproduced for the committee the recommendations they made in 1994 and their current status, where these recommendations stand. One of them was that this committee, based on our report, made the recommendation that the Ministry of Education and Training should establish procedures that enable it to monitor the costs and effectiveness of special education programs and services delivered—that is, the cost of delivering these programs by school boards—and facilitate the sharing of best practices among school boards. That was the recommendation of this committee. The current status we report is “not implemented.” We are reporting further. The cost-effectiveness of these programs—the information is just

not there. It's neither available to the ministry nor is it available to the school boards.

But on the second part, we do report on the use of the funds. For example, we found a number of school boards, and we list them on page 147, where the so-called incremental expenditures—special education really deals, or is supposed to deal, with incremental expenditures incurred by school boards over and above the funding they receive for their regular student stream. How much is special-ed costing us in terms of incremental? What we did find in that is that all the school boards, overall in the province, were saying that they were spending more money on special education than they were receiving by way of incremental grants. So that is the other answer. But the real concern we have is that they still are not in a position, neither the ministry nor the school boards, to determine whether they are spending that money cost-effectively.

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Mr Barrett: We know the allocation from the provincial government is now up to \$1.37 billion and in effect, in one sense, this is not a bad thing. There's much more money than that being spent because the school boards are also topping it up.

Mr Peters: That's right.

Mr Barrett: I guess the concern is, as you've indicated, is it being spent efficiently and effectively? I know, as an individual MPP, sometimes it is difficult for me, maybe being on the government side, to communicate with school boards or to get a hearing, and as a parent, for that matter. I guess I'm concerned if there are some boards or perhaps some schools where young people are falling through the cracks. With respect to young people with special needs, many of them are in other schools. I think of the Robarts School for the deaf, the school for the deaf in Milton, W. Ross Macdonald School for the blind in Brantford. I think I know the answer: did you cover that group, as well? What about those students?

Mr Peters: I don't have the list with me as to which school boards we covered.

Mr Barrett: I think those facilities are actually under the ministry.

Mr Peters: Yes.

Mr Barrett: There may be a process of transferring them to a local school board.

Mr Peters: I don't think they were covered in this audit. I think we covered the regular school boards and the regular programs.

Mr Barrett: Maybe I just raise that as a comment. In this area, oftentimes people do get forgotten and perhaps because they are under a ministry rather than a school board, I'm suggesting that maybe they have been overlooked inadvertently with the structure of your investigations.

Mr Peters: Not deliberately.

Mr Barrett: No.

Mr Peters: We were looking at this particular program, but we made our selection from the existing—

actually where we started out was the special education grants that were granted by the ministry and what school boards did they cover and we followed it through from there. We didn't follow the separate stream of monies given to these special schools for the blind or the deaf. This was a particular grant line, if you will, in the ministry's own estimates.

Mr Barrett: Exactly. I understand why that would be done. I guess I suggest we cannot overlook anybody.

Mr Peters: We will include them; thank you for the question. Definitely they are considered in our risk assessment.

Mr Patten: A general question, just back on the Ministry of Transportation. Let's assume I have a business and that I'm filing my income tax and I decide to alter some invoices and alter the information that's required of me. Can I not be charged criminally, and at what point do you raise a flag and say—I mean, if people are literally changing invoices and changing information and backtracking and backdating consulting contracts and filling in the blanks afterwards, is there not some kind of a basis for a special investigation by the OPP or something?

Mr Peters: The standards that we use on the criteria against which we audit are the standards that are promulgated in the Management Board of Cabinet directives. These are administrative failures. We have no evidence of criminal failures.

Mr Patten: Altering invoices is not administrative incompetence; it contravenes the law, as far as I'm concerned.

Mr Peters: It was charged against other contracts that they had. They were just shifted between existing contracts. I'm certain that my staff has considered whether there was something along those lines and they concluded there was not.

The Chair: Do you regard it as part of your role to lay this before the police or should the ministry do that, if you uncover something like this, or should somebody else do that? Did you view it as part of your role?

Mr Peters: Yes. It's definitely outlined in section 27 of the Audit Act that we can use or should use information for two purposes. One is to further the administration of the Audit Act and the second one is if there is a matter that has to be followed up under the Criminal Code.

The Chair: I think at this point in time we should deal with the subcommittee report or else we might lose the time.

SUBCOMMITTEE REPORT

The Chair: Would somebody move the report? It has to be read into the record, please.

Mr Crozier: The subcommittee on committee business met on Wednesday, December 5, 2001, and I would move the following recommendations that came from that committee:

1. That the committee review the cancer care value-for-money audit report of the Provincial Auditor and review its committee report on section 3.03 of the (2000) Special Report of the Provincial Auditor (POLARIS) at its next meeting Thursday, December 13, 2001.

2. That the selection for the public accounts committee in its review of the 2001 Annual Report of the Provincial Auditor be as follows:

3.01: Food industry program—Agriculture, Food and Rural Affairs;

3.03: Integrated justice project—Attorney General, Correctional Services, and Solicitor General;

3.05: Violence against women program—Community and Social Services;

3.07: Community reinvestment fund—Finance;

3.11: Road user safety program—Transportation;

Chapter 1—Ontario Innovation Trust (p. 3) or chapter 4-4.01: Family Responsibility Office—Attorney General;

Chapter 4-4.06: Financial control review—Economic Development and Trade;

Chapter 4-4.07: Provincial personal income tax revenue and related credits and reductions; and

Chapter 5: Public accounts of Ontario—Finance;

Chapter 4-4.10: Ontario Substance Abuse Bureau—Health and Long-Term Care.

3. That the committee will begin each section with a closed-session briefing by the Provincial Auditor and research officer. That the deputy minister and other appropriate staff of each ministry will be asked to attend the committee following the closed session briefing to provide a response to the auditor's report.

4. That the committee request of the House leaders to sit for up to 12 days during the winter recess or intersession to conduct its review of the 2001 Annual Report of the Provincial Auditor.

5. That the committee meet February 18-21, 2002, February 25-28, 2002, and March 4-7, 2002, if given permission by the House to sit during the winter recess or intersession.

6. That the committee will complete its committee report on section 3.06 of the (2000) Special Report of the Provincial Auditor (Operations Division) during the winter recess.

7. That Bill 95, Ethics and Transparency in Public Matters Act, 2001, and Bill 53, Public Sector Employees' Severance Pay Disclosure Act, 2001, be considered by the committee in the new session if carried over by motion of the House.

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The Chair: Could I just add one bit of information. I understand that in the motion that was passed last night, the private members' bills, in effect, will be saved but will only go on the order paper on the second day of whenever the new session starts. Basically, this committee will not have 95 and 93 before it until the new session starts. What that means is we may not need 12 days; we may only need 10 days, because we would set aside a day for each one of those bills. I would suggest that we amend the motion, taking 7 off in light of what

happened with the motion that was passed by the House yesterday and limiting the request to 10 days rather than 12 days.

Mr Crozier: I think that is a friendly amendment.

The Chair: The clerk can work out which two days can be dropped within that 12-day period.

Mrs Munro: I just have a couple of things that I wanted to ask about this before we agree. The question, since you left off at number 5—I haven't had an opportunity to give those dates to anyone else. It was my understanding in the subcommittee that we were just offering them internally as suggestions. Is that how this still remains?

The Chair: That's correct. They could be changed. It may be later; it may be earlier. For the purposes of this committee, all we are going to ask the House leaders in the letter is up to 10 days, and then we will work out internally what those days are. But I think we agreed yesterday that basically we are aiming for days within that time period.

Mrs Munro: I certainly agree. I just wonder if our note should reflect the fact that those are the ones being considered, or something like that, so people understand that we are looking at those dates. We should find consensus on the appropriateness of those dates.

Clerk of the Committee (Ms Tonia Grannum): "Proposed dates"—

Mrs Munro: Yes, proposed or under consideration.

Mr Crozier: Perhaps we could amend that by saying, "The committee recommends that we meet" those dates.

Mrs Munro: Yes, just something so that people understand that there is conversation that can take place.

The Chair: That's another friendly amendment then, that the committee meets on these proposed dates. There could be others.

Mrs Munro: My second question relates to part 2 of this. It is bullet point 6—if I counted correctly—with regard to chapter 1, the Ontario Innovation Trust, or chapter 4. I just wondered how that would be determined. When we say that it is either this or this, I thought we need to understand the process.

The Chair: I agree with you. There should be a clarification there.

Mr Patten: There was a discussion yesterday. It was based on communicating with the fund to see whether they would appear. If they didn't, then we would switch to the other issue.

Mrs Munro: What I'm suggesting here is, do we need to add some kind of direction to the clerk to reflect what we discussed on that? I certainly recall that as being what we were concerned about. Should there be a reflection of that in this motion?

The Chair: There should be wording to the effect that the invitation will go out to the Ontario Innovation Trust people, and we understand that the Ministry of Energy, Science and Technology is responsible for that. But in the event that they refuse to attend, then we go to the Family Responsibility Office.

Mrs Munro: I would suggest that “refuse to attend” would not be the appropriate wording; perhaps “unable to attend.” But I do think we have to give some instruction to the clerk that we’ve established a priority, that we would ask them to come.

The Chair: OK—if they’re “unable to attend.”

Mrs Munro: That’s right.

The Chair: Is that OK? I think that’s a friendly amendment as well, because that’s certainly the understanding.

Mrs Munro: It achieves the same objective.

Mr Crozier: I’m not going to read this again?

The Chair: No, I think that the Hansard has already got the amendments anyway.

Clerk of the Committee: You can just vote on the subcommittee report, as amended.

Mrs Munro: I have one final thing. On the second last one, where we have chapter 4-4.07 and chapter 5, I recognize that chapter 5 was on the suggestion of the auditor. Chapter 5 does cover a number of areas. It would seem to me appropriate that we give a more specific instruction with regard to chapter 5. I believe the auditor informally did suggest where specifically—

The Chair: Yes. What was it again in chapter 5 that we specifically wanted the auditor to—

Mrs Munro: It is the Ministry of Finance. That was why we rolled it into chapter 4.

Clerk of the Committee: I’ve got public accounts of Ontario only under chapter 5. Should it be more specific? *Interjection.*

Clerk of the Committee: I thought it was page 348.

Mr Peters: The items I brought out were on page 349, “Better Accounting and Accountability Required for Multi-Year Funding.” That was what I mentioned. I don’t know whether you want to take it further into page 352 based on the questioning today, “Accounting for Tangible Capital Assets.” I’m not sure whether that is the wish of the committee.

Clerk of the Committee: But to review that under the public accounts of Ontario.

Mr Peters: That’s right, chapter 5 and specifically those items.

The Chair: So it’s chapter 5 and specifically the items referred to from pages 349 up to and including 352.

Mr Patten: It is only these that have one page, so why not just say—

The Chair: Oh, 353, right?

Mr Patten: Does that mean we can’t talk about anything else?

Mrs Munro: Are you suggesting that that ever happens?

The Chair: We can talk about whatever we want. It is that we give direction to the Ministry of Finance as to why we want them before the committee.

Mrs Munro: That’s my concern.

Mr Patten: I had a question for the auditor on this.

Mr Peters: Can you do that, if you will, by regulation, where that’s covered off in the letter from the clerk? The motion says chapter 5, but the letter from the clerk to the ministry says with attention to pages—

The Chair: Pages 349 to 353: are we agreed on that?

Mr Patten: This is to help finance focus.

The Chair: That’s right. Is that agreeable?

Mrs Munro: Yes. I just wanted it to be clear to them in any correspondence that this is what we were specifically looking for.

Clerk of the Committee: When I send out the letter to the ministries, because I’ve been given even further direction, it will be specific. It will state from these pages, and I’ll give them the subheadings etc under the public accounts of Ontario.

The Chair: One other amendment that Mr Peters brings to my attention: when we refer to page 3 in the Ontario Innovation Trust, it is not just page 3—that is the summary—but in the actual report it is pages 15 and 16 where the Ontario Innovation Trust is referred to—pages 15 and 16 as it relates to Ontario Innovation Trust.

Anything else? Are we all clear on everything?

All in favour of the subcommittee report, as amended? Carried.

Is there anything else for the good of the committee? Is that it? Thank you very much. We are adjourned.

The committee adjourned at 1200.

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Mr Doug Galt (Northumberland PC)

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Ms Tonia Grannum

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Standing committee on public accounts

Special audit of
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ASSEMBLÉE LÉGISLATIVE DE L'ONTARIO

STANDING COMMITTEE ON
PUBLIC ACCOUNTSCOMITÉ PERMANENT DES
COMPTES PUBLICS

Thursday 13 December 2001

Jeudi 13 décembre 2001

The committee met at 1005 in committee room 1.

COMMITTEE BUSINESS

The Acting Chair (Mr Richard Patten): I'm going to call the meeting to order. The first order of business is the Vice-Chair.

Mr Bruce Crozier (Essex): Before we get into the regular business, and maybe even into the closed session, I wanted to propose a motion. With your permission, I move that the Provincial Auditor, under section 17 of the Audit Act, conduct a value-for-money audit on all past and present contracts between the provincial government and MFP Financial Services Ltd and between the provincial government and MFP Technologies Ltd and report back to the public accounts committee as soon as possible.

As some preliminary discussion, much of what I have to say has already been said in the Legislature, but I would point out to the committee that since 1995—and the source of this information is the public accounts—in excess of \$425 million has been paid to these companies for services provided, which is just fine; that's a matter of record and I just bring that to your attention.

The reason I bring this motion is that any of us who have been following the MFP stories in the media—and they were reporting on the actions of municipalities, mainly, around the province. I point out that Brock University had contracts with MFP that they found not to be just exactly what they thought they were and they negotiated a revision, the region of Waterloo is presently involved in a suit with MFP over contract discrepancies, the city of Windsor had a \$2-million leasing agreement with MFP that they withdrew from and at the present time the city of Windsor is conducting a forensic audit of all MFP contracts. I understand that report will be given toward the end of the year. The Essex-Windsor Solid Waste Authority in my riding is conducting a forensic audit of its contracts with MFP. The Union Water System is conducting a forensic audit of its contract with MFP. More recently, the city of Toronto has entered into a suit with MFP over its contracts. All of this is ongoing, and I think it is prudent that the province of Ontario conduct an audit of these contracts.

I have asked questions of Minister Tsubouchi in the Legislature. He has given assurance that these contracts are in order, but each time he used the term "at this

time." I will reiterate that I just think, considering all that's involved, it's prudent that this committee direct the Provincial Auditor to conduct such an audit. One might say, "What benefit will this have if the contracts have all been signed?" The auditor in his regular duties carries out these kinds of audits and they are essentially after the fact, and it always seems to be that we can learn from them and that if there are problems we can tighten up the way we do business in the province. I believe that's all I need say at this time, Chair.

Mr Steve Gilchrist (Scarborough East): I would just respond to Mr Crozier by saying that this is not the first time this sort of motion has been brought forward. Our concern would be that the Provincial Auditor is already charged with the responsibility of identifying appropriate areas of government operations to deal with and to perform audits on. When you come up with a new project like this there is an issue of allocation of resources. Mr Peters and I and the other members of the Board of Internal Economy had a lovely discussion on that very subject not that long ago. While I think it was resolved to the satisfaction of Mr Peters, a motion like this would certainly cause similar concerns, I imagine. Accordingly, I would far rather leave it up to the Provincial Auditor to continue to determine what is and is not appropriate subject matter for his audit.

1010

Ms Shelley Martel (Nickel Belt): We do know that under the Audit Act individual members and in fact the committee as a whole does have the ability under the provisions to request that the auditor conduct special audits. The audit that we are dealing with today and the audit on Bruce nuclear-OPG, which I referred through this committee, are both audits that the auditor is undertaking under that section. I see no reason why we shouldn't actually pass the motion and allow the auditor then to determine what resources will be required to undertake this audit and when he can have it accomplished, in the same way that he has done the two special audits we are going to be dealing with in this committee.

Mr Bert Johnson (Perth-Middlesex): I just wanted to add a few because I have heard the member for Essex speak in the House on this very issue. One of the contracts that is in dispute is either in his riding or in his own hometown or something. It seems to me that Leamington had a problem. I don't remember all of his comments, but it seems to me that Brock University and the city of

Waterloo and maybe the county of Essex as well. It certainly is an issue that's in the forefront and on the front page of some of the papers.

I have a little bit of a problem with the value-for-money audit. It would seem to me that audit would find out what it is that we're getting for the dollars that are being paid, and those, I think somebody mentioned, are signed contracts. So I don't know that that would delve into what really would concern me. What would concern me is whether they are interpreted the way they—it seems to me from what I've read, particularly in the city of Waterloo, as that's where I'm a fairly close neighbour, and in my interpretation of it, it isn't a matter of value for money anyway; it's how the contract is interpreted. So I'm not sure that we would get what we want out of this audit.

The other thing I wanted to say is that I'd be very concerned, yes, if we found that there were dollars that shouldn't have been paid and so on, but I guess I'm a little concerned too about the cost and the value: what resources do we have to put to Mr Peters? I assume that when he came to work today he had nearly enough to do to keep him until tomorrow night anyway. I assume that it takes extra staff and resources and either putting something else off or delaying it or hiring more people to do it. Those are a few of the questions and comments that I would like to put on the record today.

Mr Erik Peters: I would like to make a number of comments, if I may. The value-for-money audit would, among other things—you're quite right, Mr Johnson—refer to whether we're getting value for money from the work that is being conducted. But, more importantly, we would focus on how the contracts are being managed by the province. In other words, how do the ministries that give the contracts actually ensure that we are getting value for money and, specifically, whether all arrangements with these organizations are made in compliance with the Management Board of Cabinet directives that cover this particular area. That's one thing we would look at.

The other point is that as a matter of course we would not look at past contracts. The interesting feature of this motion is looking at past contracts. Normally, because our audits are principally geared to the current year's activities, we would not look at the past. From that perspective, it would be totally within the purview of this committee to decide that we should as a special assignment look into past contracts.

The last comment is the resource comment. As Mr Gilchrist referred to, there are continuous debates with the Board of Internal Economy because in relation to the other audit offices across the land we are significantly underfunded, so we always have to make a trade-off. Some trade-offs are necessary when we accept special assignments. But maybe I can put on the record that we are continually looking. As you know from our 2001 report, we looked at how the Ministry of Transportation was managing the consulting contracts and we found this significantly wanting and reported on that. I presume this

committee will hear talk about that later on. So one way or the other, we will try to take action on this.

Mr Bart Maves (Niagara Falls): Chair, as a member of this committee, you and I have been on this committee since 1999 together, and several times since 1999, members come forward with pet issues that they would like the Provincial Auditor to do value-for-money audits of. We usually have very fulsome discussions on those issues. We've traditionally been a very non-partisan committee. Each time members bring forward an idea for an audit for the auditor, I have raised the problem that I get nervous that in this very effective non-partisan committee, the attempt is being made to utilize it and change this committee and the Provincial Auditor's office into a political vehicle where parties are picking pet projects that they want to have audits done on.

The problems we've talked about in the past—and anyone can go back in the Hansard and look at the debates that this committee has had when we talked about asking the auditor to do supplementary audits, for example, of Cancer Care Ontario and the OPG contract. The dilemma we have is that the auditor already has value-for-money audits he has chosen to undertake. The auditor has his resources out in the field already allocated to different audits that he's doing. We always get into the discussion about what audits will the auditor stand down in order to do this audit. The auditor typically doesn't want to stand down audits; his preference would be to get more resources in order to get staff to undertake another audit. So there are a variety of issues that come up over this.

In the past, the regular members of the committee, when we've discussed these things, have had discussions around the fact that we could as a committee start coming to the table with all kinds of ideas of audits that we want the Provincial Auditor to undertake and ask the Provincial Auditor, without any new resources, to undertake those. The government has available to it the ability of ministers to request that the Provincial Auditor do certain value-for-money audits in certain fields. That is not something ministers do that often. Again, I think the concern of having ministers, members of committees and individual members continually making requests about audits they wish the Provincial Auditor to undertake is that it politicizes the Provincial Auditor's office and it becomes one where people's political agendas take over the non-partisan, really people's agenda that the Provincial Auditor's office oversees.

1020

Some members who aren't on the committee on a full-time basis may think I'm positioning. But I know, Chair, that you've been on this committee and you've heard these debates. I think they have been fair, non-partisan, very rational debates. When we have gone the step of requesting that the auditor do an audit—for instance, the Cancer Care Ontario audit that's in front of us today and the OPG audit—we've usually taken the time to thoroughly flush out that audit and the reason for it, and the government has voted at least twice in favour of such

motions. But each time we have done that we have stated that we are getting more and more concerned about the frequency of requests coming from the committee to direct the auditor to do certain audits.

Once again I come in this morning and, without advance notice I might add, we have this request. I'm concerned. For all I know, I may indeed want to vote in favour of a motion like this. I think the motion needs to be fleshed out a little bit. I have no idea how many contracts we're talking about. I have no idea about the extent and scope of the audits. There are so many questions in front of us. In the past when we've requested the auditor to do these other audits we've had rather fulsome discussions and we have let the Provincial Auditor come back and talk about what audits he might not do in order to do this audit, and a variety of other things. So I'm hesitant to either vote on this motion or pass this motion this morning. The member may want to withdraw it and bring it forward at another time to let a little more research be done. I also would urge the member to think about some of the comments I made. Again, I think we've had the discussion several times about the committee directing the auditor to do certain audits, and we all agreed that it was a slippery slope.

A cell phone rang.

Mr Maves: On that, I'm going to turn my phone off, Chair, and let you go to somebody else.

Ms Martel: If I might in reply, I don't think there was general agreement that this was a slippery slope. On the contrary—and I'm going to raise two points again. I've been on this committee since the fall of 1995. It's now the fall of 2001. In the six years I have been on the committee we have made a request for two special audits over that time: the CCO special audit, which we are dealing with today, and the OPG-Bruce nuclear special audit, which the auditor will come back with. This would be the third in six years and I hardly think that qualifies, by any shape or form or stretch of the imagination, as an abuse of members on this committee trying to get the auditor to do political things.

Secondly, with respect to politicization of the auditor's office, the only way the auditor's office is going to be politicized is if the auditor lets that happen, and I have the greatest confidence in Mr Peters that that is not going to happen. We can bring forward whatever motions we want to. He, for his part, with the professional staff in his office, can conduct value-for-money audits. I don't question those audits or the professionalism attached to them and I certainly don't think they've been politicized. So I disagree entirely with the suggestion or the notion that because opposition members bring forward special audits—this would be three in the last six years—that somehow we are politicizing the auditor's office. Frankly, I think that's an insult to the auditor.

Finally, I see no reason for us as opposition members, or indeed as government members, not to bring forward special audits. There is a specific provision under the Audit Act that allows us to do so. In fact, the whole committee can do that unanimously as a committee under

a specific section in the Audit Act as well. That is a right we have as members. It is not a right that has been abused and it is not a right that has been used too frequently in this committee. Frankly, I think it's a right that should be respected today and I think we should vote in favour of this motion.

Mr Crozier: Just a few closing remarks. I appreciate what my fellow members are saying. To Mr Maves directly, just for his information—Mr Maves? I'll wait until Mr Maves is finished. Just for your information, Mr Maves, I don't know what you refer to when you say "part-time members of the committee." I was a full-time member of the public accounts committee before you came to Queen's Park. I just want to clarify that: I don't consider myself a part-time member.

I take just a minor exception to the term "pet project." It does happen, and it's a fact, that the Essex-Windsor Waste Management Committee and the Union Water System are investigating contracts with MFP. But the region of Waterloo started all this when they realized that there was a problem. It seems to be festering around everyone but the province, to the point that the minister says there's no problem with the contracts.

The motion is purposely non-partisan. It's very straightforward. I merely brought to the committee this morning facts that are public knowledge: the amount of money that's been spent by the province with these firms, and what's going on in the province.

Finally, Chair, and I thank you for your indulgence, two things: I think it's the duty of this committee on occasion to look at something that is special. From a personal standpoint, if there was a scale on each of us in this Legislature from one to 10 on partisanship and those who are non-partisan, I would consider myself one of the ones who, most of the time—we all get partisan; we have to, from time to time—and particularly at this committee, want to be as non-partisan as I can possibly be. I assure you of that. This motion was only brought because of what's going on in the province at the present time with this company.

Mr Maves: Just in response, Mr Crozier, Ms Marland was a member of this committee since before I was born. She says she can one-up you.

The Acting Chair: You're going to be in trouble for that.

Mrs Margaret Marland (Mississauga South): I just told him that.

Mr Maves: To Ms Martel, if indeed there's been three requests made since 1995, all three have come in the past year, because this is at least the third. The government side approved of two that we've spoken of. For some reason in my recollection, I think there was another one that didn't go forward, where there was a motion made. So I think that this is the fourth this year.

So indeed it was something, by your own accounts, that was never done up until this year. Now we've had at least three requests made before. So that is the concern that I talked about before. Your comments just reiterate my concern that now this could be the third or fourth

request in a year by the committee to direct the auditor on what audit to do. That's exactly my point.

The Acting Chair: We have a motion on the table. Mr Crozier, Mr Maves suggested that we can call for a vote on it, because we have the motion, or you might withdraw it and consider that being an item for elaboration and further discussion at the committee. Do you choose to keep it on the table for a vote?

Mr Crozier: The motion was presented in good faith, and I would prefer that it stand.

The Acting Chair: All right, a motion by Mr Crozier. He has read it into the record.

Mr Crozier: A recorded vote, please.

The Acting Chair: A recorded vote.

Ayes

Crozier, Martel, Papatello.

Nays

Gilchrist, Johnson, Marland, Maves.

The Acting Chair: The motion is defeated.

We now move into an open session.

Clerk of the Committee (Ms Tonia Grannum): You were in open session.

The Acting Chair: We're in open session? Yes, but for the purpose of dealing with the Cancer Care Ontario value-for-money audit, Mr Crozier, will you take the Chair?

1030

SPECIAL AUDIT OF CANCER CARE ONTARIO, PROVINCIAL AUDITOR

The Vice-Chair (Mr Bruce Crozier): I'm pleased to take the Chair this morning. I just point out to the members of the committee that our colleague, Mr Gerretsen, is on an assignment given to him by the Speaker. So he regrets his absence from the committee this morning.

So we will begin with the Provincial Auditor's report to the committee on the Cancer Care Ontario value-for-money audit.

Mr Peters: I'd like to open up by saying that of course I'm fully aware that you have only received the report just now, which was the earliest we could. Quite frankly, we had a last-minute snag. We had an intervention from the outside that delayed us. We had planned to report it on December 6 and we had a request made to interview one more person. We acceded to that request and interviewed that additional person, and that caused the one-week delay.

Mrs Marland: Was that at their request, Erik?

Mr Peters: Yes.

Mrs Marland: It was the party's request to be interviewed, was it?

Mr Peters: Somebody from the outside requested that they had information that they felt would be pertinent to our audit and requested that we meet with that particular individual. We decided to accede to that request because we never close the door on fact-finding. So if they had something significant to add, we were willing to listen to them.

The overall conclusion that we reached in this audit is found on page 2. There are a few words there. Maybe I will just read them into the record and then make some comments on them and walk you through some of the detail.

"The private after-hours clinic, operated by Canadian Radiation Oncology Services Ltd (CROS), which is controlled by CCO's former executive vice-president and coordinator of the radiation treatment program, has enabled Cancer Care Ontario to treat more patients close to home. In addition, the cost of radiation treatment at the after-hours clinic is approximately \$14,000 lower per patient than treatment in the US. The referrals of breast and prostate cancer patients to the US ended in March and May 2001, respectively. However, we found little evidence to indicate that CCO had considered all reasonable options for providing these services itself before proposing the establishment of a private after-hours clinic.

"In addition, when awarding the contract to CROS, CCO did not follow the government's policy requiring a fair, open, and transparent competitive process and, therefore, did not ensure that it was acquiring the services at the best price."

In other words, it's good news and bad news. We have indeed reduced the cost to the program by stemming the flow of patients that had to seek treatment in the United States, but the bad news is that Cancer Care Ontario did not follow a sufficient process to ensure that those services are actually acquired at the best possible price. Particularly, it did not use an open and competitive process when it awarded this contract to Canadian Radiation Oncology Services Ltd, which is controlled by its former executive vice-president and coordinator of the radiation treatment program.

We provide quite a bit of detail in this relatively short report. Our main concern is found on page 4, where we talk about compliance with Management Board of Cabinet directives. They seem to have found some difficulty in interpreting these. In fact, it required, as you will see from the detail once you get around to having time to read it, that legal counsel was engaged by Cancer Care Ontario. We, because we are dealing with legal opinions, engaged legal assistance of our own and ended up presenting both views to you, and then formed our conclusion.

One of the concerns was, for example, that they did not have to follow the Management Board of Cabinet directives directly because they felt this was "an unforeseeable situation of urgency...and the procurement cannot be concluded in time to meet requirements." We are expressing concern about that assumption, largely be-

cause the fact that we had to send cancer patients to the United States was known for a long time. It was known to the ministry. In fact, the ministry instructions to Cancer Care Ontario are very clear. The ministry instructed Cancer Care Ontario to find ways of providing the treatment in the province as opposed to having to send patients to the United States. And that is clearly represented.

The other one is that they argued “only ‘one supplier is able to meet the requirements of a procurement.’” Well, the problem was that they invited three organizations to make proposals; two did, and then they dropped to one. But we felt the evaluations could have been more thorough, under the circumstances, to determine what was happening there.

The other area of concern was whether Cancer Care Ontario had applied the Management Board of Cabinet’s directive on conflict of interest appropriately. We concluded that we were not satisfied that Cancer Care Ontario took the necessary action to prevent the perception of a conflict of interest. This perception arises from the fact that Cancer Care Ontario allowed its executive vice-president and coordinator of the radiation treatment to remain in its employment throughout the procurement process. They did not ask for his resignation until after they awarded him the contract. The executive resigned on January 12.

Secondly, Cancer Care Ontario “permitted the manager of its central referral office to be involved in the proposal by the executive vice-president and coordinator of the radiation treatment program.”

I should add on all these points that we have presented our draft report to both the Ministry of Health and Cancer Care Ontario and that we have had lengthy discussions with them. There were very minor changes made as a result of those discussions. They were largely more of a fact clearing—what are the facts that we presented. We made those adjustments. So there is agreement with both the Ministry of Health and Cancer Care Ontario that we are factual in our observations.

We talk about the cost of the treatment. We provided a little chart that indicates what the cost was of referring patients to the United States. That’s on page 8. We’re talking about what Cancer Care Ontario is paying for treatment at a regional cancer centre and what payments they are making to the CROS organization.

The audit certainly did not extend, and could not extend, into whether or not CROS is making a profit on this. We did not have a right of access, nor did we want to have right of access, to accounting records of CROS itself. We consider them a service provider like any other service provider to the government. Normally we don’t delve into the costing and other information and profitability of service providers to the government. That is their business, and that forms the basis on which they presumably tendered for the services.

The last point that I would like to draw to your attention is that we also have on page 9 a comment on the waiting times. As we state, “there has not been a signifi-

cant change in the overall waiting times at the regional cancer centres since CROS began providing treatment.

“The Canadian Association of Radiation Oncologists recommends that the time between patient referral to a regional cancer centre and initiation of radiation treatment not exceed four weeks. CCO’s current target is that 50% of cases move from referral to treatment within four weeks and 90% within eight weeks. However, for the month of August ... CCO’s statistics indicated that only 31% of patients were moving from referral to treatment within four weeks and 60% within eight weeks.” There were also “no significant differences between the waiting times at CROS and for breast and prostate cancer patients being treated at regional cancer centres.”

That concludes my comments, and I open it up.

1040

The Vice-Chair: Questions and comments? Since the motion was originally made by the official opposition, we’ll begin a round of questions and comments with Ms Pupatello.

Mrs Sandra Pupatello (Windsor West): Are you doing timed rounds?

The Vice-Chair: I don’t know whether they need be timed or not.

Mrs Pupatello: They should.

The Vice-Chair: They should?

Mrs Pupatello: Yes, just to make it easier. What, 10 minutes?

The Vice-Chair: Let’s start out with 10 minutes.

Mrs Pupatello: I just want to ask them all up front, or I’ll wait and time them.

There are two elements I wanted to ask the auditor about. One is around the wait times and the other is around the set-up of the agreement and how typical the agreement is with CROS. Specifically, there was some information provided via the media that there was start-up funding provided to the company as well. I don’t see that listed in the agreement on page 7, or what you detailed.

My understanding was that not only were they given a number of elements in terms of, I guess, safety nets to start up this private firm, one of them that was so incredible to me was that they were handed about \$3 million to cover their start-up costs. I don’t know if that’s factual, if it was erroneously reported in the media, but it just seemed that when you describe the right of refusal, it is an absolutely fabulous contract.

I don’t know if you want to address that first. First of all, the right of refusal. It is completely unencumbered as a company to accept any and all cases outside of Cancer Care Ontario. There isn’t a way that any other company would ever have an opportunity to enter into it because the first right of refusal is on every single measure. If the contract is changed, CROS has the opportunity to have it at the new terms, and they always have a right of refusal for all cases outside of CCO.

So are the start-up costs legitimate, or was it simply that they would just expense all of their costs?

Mr Peters: There was no additional money over and above the contract flow to CROS for the start-up costs. What did happen was that a certain amount of money was pre-flowed and then deducted from the services that were provided.

Mrs Pupatello: That's a fairly great deal; would you agree?

Mr Peters: I understand it's not that much money.

Mrs Pupatello: There's absolutely no risk, though. The point is that anyone could walk in and they have absolutely no financial risk. Any expenses incurred to start it up they were reimbursed, and then they were guaranteed revenue based on the guarantee of cases they were going to be sent. So this was absolutely a no-risk start-up for this private firm.

Mr Peters: What we found is there were no additional funds provided for start-up. The concern was of course whether they would be able to provide the services that Cancer Care Ontario needed to provide; in other words, could they handle the number of patients that they should handle? It was for that reason that there was some pre-flowing of funds. But the amount they are being paid per patient we outlined, and they did not exceed that. They were getting the agreed terms.

Mrs Pupatello: In terms of being guaranteed. I guess the questions we raised in the House at that time were that of every element that a private company would normally have to deal with in terms of risk to enter into business in general, the medical equipment was guaranteed, because they were using the hospital's; the personnel services were guaranteed, because they were using CCO's or the hospital's; any start-up cost was reimbursed; and they were guaranteed to be sent cases. So absolutely every element of the business deal was guaranteed to them. I don't know of any company on the planet that has such a wonderful offering, and your auditor has confirmed that.

The other element I guess that was important was the minister's responses in the House at the time. He continued to support this based on the fact that there was such a tremendous wait time. I guess the most interesting to me of your entire report is on page 9 around the wait times. There hasn't been significant change. I'm finding there's something that is not adding up.

If CROS was indeed given that many patients, then it can only be because of two things that the waiting times have not changed. They haven't changed because the demand is gone, so that in fact by starting up CROS, they've eliminated lists. There are no more people to send. The other element is that personnel have been taken from the public system and are now working in the private system so that the public system isn't able to work through their caseload.

There needs to be a reason why the wait times haven't changed, despite having an overflow clinic, which is essentially what the excuse was for the private clinic—this overflow. But it's impossible that the wait times have not changed. Either there has been this massive increase in total, but the numbers look like they're still the same

in terms of the year-to-year, or the personnel is not working as much in the public setting. What would ever explain that lack of change in wait times?

Mr Peters: Nick, you can make comments. I'll just deal with the first part of it. In the principal objective, there was not even a statement of reducing wait times. The principal objective was to deal with treatment provided in the United States, that that was to be stemmed.

Mrs Pupatello: But a minister is responsible for this.

Mr Peters: I see. That's fair enough, but I'm responding to what we found, that the proposal to the ministry by Cancer Care Ontario dealt only with having treatment provided by an external service provider who would provide service that would otherwise have to be financed by the province by travelling to the United States.

Mrs Pupatello: Just explain why the wait times haven't changed. It's impossible for an overflow clinic to meet their objectives, and in fact be bonused based on meeting their objectives of caseload, and the overall wait times not to have changed.

Mr Peters: I think in all fairness that may be a question better directed at Cancer Care Ontario itself. We just noticed the fact that the wait times have not been reduced. What steps are being taken to address the potential reduction of waiting time etc was not within the direct purview of this audit. That's why, for example, you don't find our comments in the overall conclusion. We just thought we'd bring it to your attention. It is something that should be discussed further, and information should be obtained from both Cancer Care Ontario and maybe the Minister of Health as to what is being done about reducing wait times.

Mrs Pupatello: OK. I guess I need to put on record that it is an incredible outcome that we have gone through the institution of a private clinic completely outside of the conflict of interest guidelines, outside of the service-delivery models that are mandated by the government itself and, despite breaking all the rules in setting it up in this manner, they haven't even affected the wait times.

I don't know what the rationalization is for its existence. It hasn't improved wait times, we've sent monies into the private sector and we can't find an answer in the audit that says one of two things: either in the 12 months that it has been operating the demand on these types of treatments has increased exponentially or the personnel has been pulled from the public system and is working in the private system, so we've actually sucked the staffing availability out of the public sector and put it into the private clinic, all of which we had predicted initially. I don't know if you have a comment on that.

Mr Peters: We did find that the demand has increased. That is factual.

Mrs Pupatello: Can you tell me if ever in the history of Ontario business there has been any such breach of government policy in requiring a fair, open and transparent competitive process? Have we had this before in Ontario?

Mr Peters: I'm afraid that our reports are peppered with instances where the Management Board of Cabinet directive is not followed.

Mrs Pupatello: Can you tell me what happens once you've identified that this breach has been made? What have the steps been as the outcome?

Mr Peters: The fact is that the directives are administrative directives, so sanctions or penalties that can result are not actually provided for under directors directly. There is no direct relationship between what happens, if you breach the Management Board of Cabinet directive.

Mrs Pupatello: So historically every time we breach every rule the government creates, they just shrug their shoulders—that's been the history?

Mr Peters: No, the history has been somewhat more positive than that. At least in all the cases we noted, where we made recommendations that the directives be fully applied, the ministries have indicated that they will do so in the future.

Mrs Pupatello: Given the outcome, if you say administrative changes—and that's been the history—then what is your recommendation in terms of improving this, given the agreement that was signed with the company? No one else is going to be able to have such a contract. Would that also include the non-profit industry and/or the current cancer treatment centres? Would they not be able to increase their caseload based on the agreement with the private company?

1050

Mr Peters: The regional centres can increase the caseload during the day, but they can't go into overtime.

Mrs Pupatello: So just to confirm: given the agreement they've signed with CROS—and this is my last comment, Chair—even in light of what you've discovered, the government is unable to rectify it because they are beholden to the contract they signed with CROS. They can't extend into evening hours to recoup the case-loads, given the breach that you've identified?

Mr Nick Mishchenko: There is nothing to prevent Cancer Care Ontario from extending the hours of their existing clinics at the regional cancer centres. That's the case now and was the case previously. What this provision does prevent, though, is the establishment of a private after-hours clinic in any other centre without first giving right of refusal to this company.

Mrs Pupatello: OK, thank you.

Ms Martel: For how long is this contract in effect?

Mr Peters: For two years, and it provides for an automatic renewal.

Ms Martel: Automatic renewal for another two years?

Mr Peters: No, for the second year.

Ms Martel: OK. Let me start first on page 2, at the bottom: "We would have expected CCO to have prepared a business case that thoroughly analyzed options for providing the services internally before it approached private-sector service providers."

Can you tell the committee what business case—I use that term loosely—was actually provided or given to you

to describe why they needed to do this in the first place, in terms of going to the private sector?

Mr Peters: There really was not an extensive business case. There was a lot of internal discussion taking place according to Cancer Care Ontario, but there was not a comprehensive business case that they could present to us.

Ms Martel: Would you describe the November 3, 2000, proposal to the ministry as their interpretation of a business case?

Mr Peters: I think they would have to answer that one. They made the proposal. I think they called it, "A New Approach to the Delivery of Radiation Treatment in Ontario," and that was the case they put forward to the ministry.

Ms Martel: That was the sole document that went to the ministry for approval of the funding of this contract?

Mr Peters: Approval of the concept, not the contract. The ministry was very clear that it gave approval to the concept of developing an after-hours clinic, particularly for the purpose of reducing the travel costs of people going to the United States. But the ministry was also very careful in saying to Cancer Care Ontario, "When you do this, please follow the Management Board of Cabinet directives."

They let Cancer Care Ontario proceed. There's always some concern, and I won't get into that in detail, but Cancer Care Ontario is a so-called schedule 3 agency and there's always some debate as to how autonomous a schedule 3 agency is from the government. That's why in the memorandum of understanding between Cancer Care Ontario and the Minister of Health there is an indication that Cancer Care Ontario should follow these Management Board of Cabinet directives. Certainly we also found sufficient evidence in correspondence by the Minister of Health that they asked Cancer Care Ontario to apply these directives.

Ms Martel: But it appears that they asked them after they had already given the approval. If I look on page 4 at the top, on January 11 the deputy writes to CCO approving one-time funding for the cost of treating patients in the after-hours clinic. Then on March 15 the ministry writes to CCO asking for assurance that it had complied with Management Board of Cabinet directives—two months later. What triggered the ministry's sudden concern and why wasn't that done at the time the money was actually approved?

Mr Mishchenko: It was. In the January 11 letter, if you read on, it does say, "The letter also stated that any contractual arrangement reached by CCO must comply with all relevant policies, directives and guidelines on procurement"—

Ms Martel: In the same letter of January 11?

Mr Mishchenko: The January 11 letter—"and conflict of interest of Management Board of Cabinet and of CCO."

Ms Martel: And you can confirm that letter also said that the funding was based on \$3,500 per case?

Mr Mishchenko: Yes.

Mr Peters: Yes, I think that's what we're saying.

Ms Martel: OK, I'll return to that issue later.

Mr Peters: Can I just go back to an additional point that we're making?

Ms Martel: Yes.

Mr Peters: We also found that in March, the ministry said they would establish whether requirements in the deputy minister's letter of January 11—that's later on that page—were met, "based on the information supplied by Cancer Care Ontario, advice internal to the ministry, and the value-for-money audit" So the ministry effectively used the audit to determine whether there had been compliance.

Ms Martel: The ministry used your audit to determine if there had—

Mr Peters: That's right.

Ms Martel: So the ministry itself did not determine if CCO was in compliance?

Mr Peters: No. In March, they wrote that they would rely on our audit.

Ms Martel: I see what you're saying. The ministry also stated that it would establish whether the requirements in the deputy minister's letter were met, "based on the information supplied by CCO."

Mr Peters: Right.

Ms Martel: It sounds to me like the ministry itself gave an undertaking and then never followed up.

Mr Peters: I apologize. The letter was dated in May, way after. It was not March; it was in May that the ministry wrote that letter in which they say they would rely on the value-for-money audit being conducted by the Provincial Auditor at the request of PAC.

Ms Martel: So just to confirm, they never followed up themselves, despite what they said in January that they should comply. They relied on you to determine if compliance with Management Board guidelines had been met?

Mr Peters: Yes. Actually, they did receive a letter, at their request, from Cancer Care Ontario, that they had engaged legal counsel and legal counsel had advised them that they had been following. That's why, later on, we are challenging that to some extent, because they got into the situation where legal counsel made certain assumptions. We found it necessary to engage our own legal counsel, and our own legal counsel certainly felt that there was a problem.

Ms Martel: OK. Let me back up to the public sector. Our argument has always been that this could have been done in the public sector, had people wanted it to be done in the public sector. So that I'm clear, you're saying, "We found no indication that CCO pursued a similar arrangement internally whereby CCO would operate an after-hours clinic utilizing staff from" Sunnybrook, Hamilton and Princess Margaret. So in your opinion there was no effort made by CCO to determine if this could be done in the public sector?

Mr Peters: Yes, it is true that there was no effort made to involve people from other centres. There was certainly some effort made to involve staff from Sunny-

brook, but there was not an effort made to see if staff could be drawn from other centres.

Ms Martel: OK. You also said on the same page that "CCO had drafted a letter in November 2000 to be sent to CCO's radiation oncologists across the province to determine whether any of them were interested in establishing a"—here's the "private"—"after-hours clinic, this letter was never sent." Do you have any indication why that was not undertaken? That would have at least covered CCO a little bit in terms of actually saying they had tendered this.

Mr Peters: You're quite right, but they will have to answer why they didn't send it. It's a factual observation, and they agreed with the observation that the letter was not sent.

Ms Martel: So there was no indication at all that they looked at how to do it in the public sector and, secondly, no indication at all that when they made the decision, which was frankly made in August 2000, they were going to make this in the private sector. The only people they were interested in were their own staff and Sunnybrook. That was it.

Mr Peters: That's what our report says.

Ms Martel: The decision was made. There was not even a point to—

Mr Peters: Well, I'm not sure whether the decision was made in August. Certainly in August we were told consideration was to be given as to how to establish it. I don't think the decision was made that early. The decision seems to have been made more in the November 3 document.

Ms Martel: I was interested, though, that you said, "We were advised"—your office—"that, in August 2000, CCO senior management asked the then executive vice-president and coordinator of the ... program whether he would be interested in establishing a private after-hours radiation clinic." It was pretty clear where they were going.

Mr Peters: It's certainly an indication of direction.

Ms Martel: Yes, OK. Next page, top of the paragraph. I was interested in your comments that there was a meeting of CCO radiation treatment advisory committee—the heads of all of the cancer centres—asking why there had been no advice sought from them about the establishment of this private sector clinic. You are saying that according to the minutes, "the establishment of the clinic was kept as confidential as possible to prevent the media from making it a political issue and therefore putting stress on finalizing the arrangements for the clinic." Can you tell this committee what was in the minutes that led to you writing that?

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Mr Peters: What you find is what you get. That's what the minutes said and that's why we reproduced it.

Ms Martel: Can you table those minutes for this committee?

Mr Peters: Again, I'm somewhat prevented by section 19 from preparing that for the committee. However,

there's no reason why you should not be able to make a request of Cancer Care Ontario to table its minutes.

Ms Martel: But let me ask if it was clear to you, upon reading the minutes, that there was a very definite concrete effort to keep this issue under wraps so that there would be no media scrutiny and then, I assume, no public scrutiny of what CCO was up to in establishing this private after-hours clinic. Would I be correct in making that assumption?

Mr Peters: That's not my impression; that is what the minutes said.

Ms Martel: It used the words "political issue"?

Mr Peters: Yes, they were used.

Ms Martel: That's lovely. Let me go back to the deputy minister's letter. Was there any indication, when you talked to the Ministry of Health, that they were aware that CCO was trying to do this under wraps in such a way as to avoid its becoming a political issue? Had they seen the minutes? Was there a ministry representative at that meeting who would have seen those minutes?

Mr Peters: I have verbal information that this was not so; they were not informed of this.

Ms Martel: They did not know. And there was no ministry staff person at that meeting?

Mr Peters: No.

Ms Martel: Fine, thanks.

The Vice-Chair: We have to move on to the government caucus.

Mr Maves: Auditor, on page 2 at the bottom, there's indication that "'CCO has many agreements with its various professional groups, which do not permit the very rapid adjustments required to eliminate out-of-province referrals this year.'" The contracts that staff had with CCO—and my understanding is that the employees who are in the after-hours clinic are also people who, in the daytime, are employed by regional cancer centres. They haven't brought in new employees?

Mr Peters: To the best of my knowledge, yes.

Mr Maves: So the contracts they currently have wouldn't allow them to work expanded hours and after hours at CCO, and therefore CCO said, "We need another alternative." So somebody came around with an unsolicited proposal to say, "Look, I'll run an after-hours clinic and I'll offer positions to those staff who are currently working," because those staff wanted to work, and that's what's happening here. So they're not detracting from their existing hours of work. They're doing their normal hours of work, and then after hours they're working at this clinic.

Mr Peters: There's some arrangement. I would just like to comment on the word "unsolicited." As we were advised, as we state, the people who did it were actually approached by Cancer Care Ontario to consider making a proposal. So Cancer Care Ontario asked for that.

We deliberately put this in quotations because that was exactly what Cancer Care Ontario stated under the circumstances and they concluded that this did not permit the very rapid adjustments required to eliminate out-of-

province referrals, and that seems to have been the main objective of this exercise.

Interjection.

Mr Peters: I'm just advised that Cancer Care Ontario does have after-hours clinics of its own.

Mr Maves: In layman's terms, though—and I've actually just flown through this report—Cancer Care Ontario is requested by the government to find a way to stop sending patients out of the country at \$18,000 a pop for cancer treatment. When they're discussing this, one of the members of the Cancer Care Ontario board—Mr McGowan, I think it was—decides that he's going to come forward with a proposal to create an after-hours clinic. He thinks he'll be able to utilize existing staff and the additional hours of treatment that will be available will eliminate the practice of sending people to the United States. Is that basically how that rolled out?

Mr Peters: He didn't approach them; they approached him. But essentially, the main thrust was to avoid the \$18,000 average cost of sending a patient to the United States, to find another less expensive way to the taxpayer to do that.

Mr Maves: So Cancer Care Ontario is in a rush to stop this expensive practice of sending people out of Ontario for treatment. They get this idea, they get this proposal in, they decide to go in this direction but they don't take the time to go out and do proper tenders and all of that. The result is positive: people are no longer being sent out of the country for cancer care, they're being treated at home and they're being treated for \$14,000 less. It's a good result. So in effect their heart was in the right place and the result was excellent as far as cancer patients are concerned. They really went about it a very poor manner as far as a business case is concerned.

Mr Peters: That's true. You're also quite right on the point, which I should have raised before, that it certainly is far better for the patients to have the treatment closer to home, and it is in there. What we point out is, they didn't know as a result of this exercise, and we don't know, whether they could have saved the taxpayer even more money and achieved the same objective.

Mr Maves: In your investigation, were there other agencies that would have bid on such a tender?

Mr Peters: There was one proposal made, as we point out in this letter that they drafted, which they didn't send. That could have potentially, I guess, involved other heads of radiation clinics or led other people to make proposals as well. Again, that's one part we don't know because the letter was never sent. They just approached one person, when in fact they could have approached other people, and they weren't approached.

Mr Maves: Who else—other companies outside of Ontario to come here and provide a service?

Mr Peters: Yes, other companies that are in the business of providing professional services, because that's ultimately what it was: how to provide these professional services that were required, and the question was raised as to who else could have done it. What we found is that

they did not go as far afield as they probably should have to determine if those service providers were out there.

Mr Maves: Normally in your reports, you have very clearly set out recommendations for going forward. I don't see them here. Obviously, your recommendation is you should follow Management Board's practice of doing proper tenders, but you don't set out any recommendations.

Mr Peters: No, this was really because it was a special assignment requested by the committee and we felt that the committee's decision was that we just do a value-for-money audit. So we decided in this case to bring the facts before the committee for a proposed action. If the committee decided to make recommendations as a result of this report, it was really the committee's prerogative in this particular assignment.

Mr Maves: Going forward, as a committee member, if I wanted to make a recommendation on the practice and what they've done, since the result has been so successful for so many people and has saved money, we could safely recommend that the concept and the practice of these after-hours clinics is the right one as far as patients are concerned, but they need to do a better job of the tendering process to make sure that more people have an opportunity to tender to provide such services.

Mr Peters: It goes a little bit beyond that. I think it will be, for example, within the purview of the committee to deal with the recommendation that we already made in 1999, which is, for example, to make additional efforts to reduce waiting times through other arrangements. It would also go into the fact that, in general terms, Cancer Care Ontario should follow the Management Board directives in all its activities. A third area of concern—and that is why we brought it out—is that the contract does have this unusual clause in it that virtually gives the first right of refusal of anybody else's service, and that is not very sound contracting in our opinion.

If it is the committee's wish that there be an open and fair tendering process, that contracts be drawn up in such a manner that adjustments can ultimately be made as to how the service is delivered, those are the kind of recommendations the committee might want to consider.

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Mr Maves: On the waiting time, I recall when Cancer Care Ontario was here that the four-week waiting time standard was one they set for themselves.

Mr Peters: No, it was set by the outside. That's the Canadian Association of Radiologists.

Mr Maves: No, but they adopted that standard, right?

Mr Peters: Yes, that's fair.

Mr Maves: At the time, as I recall, Ontario was the only province to have accepted that as their standard and their goal to achieve.

Mr Peters: No, there are others. Also, Cancer Care Ontario did modify the standards, as we point out on page 9. They said the current target is that 50% of the cases be done in four weeks. In other words, the overall extent is that the radiation oncologists said everybody should get it within four weeks, and they decided our

target is 50% and the eight-week target is 90%. Both of those targets are currently not met.

Mr Maves: Is that an adjustment they made since they were here? I don't recall that being the case when they presented before us.

Mr Peters: I'm not 100% sure, but it's likely.

The Vice-Chair: Any further questions or comments?

Mrs Lyn McLeod (Thunder Bay-Atikokan): I apologize for having been out for a period of time. I'll try not to duplicate questions that may have been asked. I did want to come back and just clarify the wait-time issue, as I understand it. In your 1999 report, 32% of patients who required radiation therapy were receiving that treatment within four weeks. That was prior to there being any alternative measures like sending people to northern Ontario or out of province for radiation treatment. So it was 32% prior to any alternative measures being put in place.

In August, you said it was now 31% within four weeks. So whether we're talking about the re-referral program or the repatriation to the extended hours clinic, the wait times have only been reduced within that four-week period by 1%. Have I accurately stated that?

Mr Peters: It's 1% worse.

Mrs McLeod: I'm sorry, it's 1% worse?

Mr Peters: Yes. They were at 32% and they're now at 31%.

Mrs McLeod: Oh right, of course. I'm thinking of people getting treatment. Thank you for that clarification.

I understand that one of the arguments in favour of the extended hours clinics is that they have been able to repatriate patients so patients don't have to be sent out of province. We would all agree it's a good thing to have patients treated at home, but I think the thing that shocked me in this was to realize that the actual increased measures, whether it was in the repatriation or in the extended hours clinics, have not made a difference in terms of wait times. I understand you've been asked that question and aren't in a position to give any answers as to why that could be.

Mr Peters: The objective was clearly to stem the flow to the United States and provide a more convenient service, but that was a known population. They just redirected the same people to go somewhere else for the treatment, so there is no direct correlation to waiting times in this activity.

Mrs McLeod: But the re-referral program itself didn't change the wait times. The wait times are worse than they were before the re-referral program.

Mr Peters: That's what we found.

Mrs McLeod: So logically, that same population being brought back is better for the patients but it hasn't changed the wait time.

Mr Peters: That's right.

Mrs McLeod: The central question I was concerned about when I requested that the committee ask for a value-for-money audit was whether or not the private clinic was able to treat patients in a more cost-effective way, for whatever reasons, than could be done under the

publicly run system. First of all, I would say that the cost comparison between the re-referral program and the extended program is not the comparison I was looking for, and I think you would acknowledge that. It's a question of, if you're going to do this at home, if you're going to run this new program, if you're going to use your resources in a different way, can it be done in a more cost-effective way in a private clinic? That would be the only justification for continuing to look at these clinics being run privately as opposed to being run by Cancer Care Ontario's regional centres. Your response to that following the audit is that there is no evidence one way or the other because it has never been looked at. Is that a fair interpretation?

Mr Peters: There was an insufficient business case to determine whether the services could be provided internally.

Mrs McLeod: So it still remains, for me at least, a central question that hasn't been answered.

Mr Peters: Yes, it remains a question. The real cost comparison between the two services remains, but we did provide the table on page 8 in which we indicate that the regional cancer care centres are receiving up to \$3,079 per patient and the CROS is receiving up to \$3,500.

Mrs McLeod: Modified in some cases by \$200-plus that they would not receive, so on a per-case basis the private clinic is still getting more. So on the surface of it alone, you might say, it's more expensive than a private clinic.

Mr Peters: That was one of the things we considered in this, whether to go into the costing of the services, but we didn't do that, nor did we cost out additional incentives that Cancer Care Ontario may have provided to its regional centres to provide the additional work. These were the obvious ones that we relate there.

Mrs McLeod: I appreciate the fact that you probably wouldn't have been in a position to ask the questions or get the information as to why the added cost per case appeared to be warranted, whether it was because people working in the extended hours clinic are actually personnel working in other clinics during the daytime in some cases, whether there are overtime costs or bonus salaries being paid and whether those costs would be incurred if you tried to set up the same thing in the publicly run centres.

Mr Peters: Maybe in a sense I can answer in this way: we didn't necessarily consider this as a scope limitation, but one of the facts that had to be considered was that there was a risk. At that time, Cancer Care Ontario had determined on its own that it had some difficulties providing these services internally. It was going external, and probably one of the major risks that the CROS faced was whether they would be able to get staff to do the number of cases they wanted to do. I presume—and this would not be an unreasonable assumption—that some premium was paid to make sure that there was some capability of providing these services.

Mrs McLeod: I guess for me it comes back to this frustration of really wanting to get the facts out as to

whether or not running this service—and I don't want to argue with the value of finding ways of treating patients close to home so that the re-referral program can be ended. That's a goal I share completely. It concerns me that extended-hours clinics or re-referral have not reduced the waiting times, but at least the goal of trying to do it at home is one I support. What frustrates me is I still don't know whether or not there is any benefit for patients in doing it in a privately run centre as opposed to doing it under the auspices of Cancer Care Ontario.

Mr Peters: There are really two ways of answering your question. If we had made a recommendation, it would really be to treat this as a pilot arrangement and then do a very careful evaluation of whether it not only achieves this objective of having patients who were sent to the United States now treated in Ontario, and all the benefits that arise from that, but to take the next step and see whether, for the overall system, that is the best way to proceed with how these services are supposed to be delivered.

That's why we also raised the concern of the clause in the contract that virtually gives the right of first refusal and seems to have put the CROS into a fairly unique position of influencing the decision-making in that regard. That is certainly a concern, for that very reason.

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Mrs McLeod: I appreciate that, because that was going to be my last question. I noticed you used the term, in referring to Mr Maves, that it was an "unusual" clause. Would it be unusual in any kind of private concern?

Mr Peters: I would think so. I would consider it highly unusual that a contract was granted on the basis that the contractor or the supplier of the services virtually can influence future decision-making by Cancer Care Ontario as to how services are being provided.

Mrs McLeod: Thank you. Maybe that's the recommendation the committee should be looking at, that this private clinic be considered a pilot project and that there be a full evaluation with your assistance prior to there being any further request for proposal made.

Mrs Pupatello: I just have a comment in terms of the unusual content of the agreement. The January 11 letter from the deputy minister writes to CCO approving one-time funding of \$4 million to CCO for the private, after-hours clinic. Your colleague also mentioned that was reimbursement costs, as opposed to start-up. I guess that's where the \$4 million came from. How typical would it be for the government to hand a private company \$4 million up front? What would the purpose of that be?

Mr Peters: The amount shows not the \$4 million they were paid. They were paid some amount to set up the clinic, but as you pointed out in your previous question, a lot of equipment and everything was in place at Sunnybrook.

Mrs Pupatello: So what's the \$4 million for? Did you discern that?

Mr Peters: That's why the amount was minimal, but afterwards—the \$4 million was really to pay for the cases

they treated. That was the service provider payment for the cases they—

Mrs Papatello: Agreed, but the unusual matter, in my view, is that we are assisting with those reimbursements of start-up costs. How typical is that in an agreement? You don't go to ABC Photocopy and give them money to buy or lease their photocopier.

Mr Peters: It's not that unusual, remembering that the objective, under the circumstances, was to stem the flow of patients going to the United States as fast as possible. If they pre-flowed some of the funds before they actually had patients, in a small amount, I think that would not have been an unusual business arrangement.

Mrs Papatello: So it wouldn't have been—

The Vice-Chair: I'm sorry, that section's time is up. Any further comments or questions?

Ms Martel: Erik, you said that it was unusual to have a right-of-first-refusal clause in there. Can you tell me if the Ministry of Health was aware of this clause?

Mr Peters: They indicated to us they were not aware.

Ms Martel: So they are providing 100% of the funding and they were not aware of the details of the agreement between CCO and the private clinic?

Mr Peters: That is our understanding of the situation.

Ms Martel: They were not interested in understanding the terms and conditions of a contract that they were paying for 100%?

Mr Peters: Again, that would be ascribing some attitude as to why they were not. Their objective—and they stated that very clearly to us—was to ask Cancer Care Ontario to provide this service, stemming the flow of patients going to the United States, and that was their principal concern.

It is also clear that they decided not to get into the details of the arrangement, to the extent of afterwards relying on our audit as to whether, for example, the management directive had been followed.

Ms Martel: Don't you find that a little bizarre? There's a question of accountability here, and there's also the question that every dollar that's paying for this is a public dollar.

Mr Peters: It does get into the area of the working relationship between the ministry and their schedule 3 agency, and to what extent they want to control the agency and to what extent ministries, they would argue, micromanage agencies of the crown.

Ms Martel: Let me deal with page 8, because you have provided us with a chart which frankly is very valuable; most valuable because it completely contradicts testimony that was given to us by the Ministry of Health in the health estimates on October 9. On that day there were questions raised about what amount of money was being paid to the private clinic on a per-case basis.

Mr King, who is the ADM, said in response to this question—and I'm just going to quote this for you: "In answer to your question, the intent of the contract was such that if the after-hours clinic reached 1,000 cases, they would be paid \$3,500 per case. So in that situation, if there were 1,001 cases that did occur, then they would

be paid \$3,500 for each of the 1,001 cases." The conclusion is that they have to do 1,001 cases and then they will receive \$3,500 per case. Your chart, however, makes two things clear: one, that at 500 or more cases, in fact, they are paid \$3,200 and, second, that the private clinic was guaranteed, as part of the contract, that they would receive 500 cases.

Right off the top, they were paid \$3,250 per case at 501 cases, not \$3,500 per case after 1,000. You've made that clear in your chart. In fact, they started to get \$3,500 after 750 cases according to your chart. They had two chances at a bonus, or they are having two chances at a bonus, as far as I can read your chart. Would that be correct?

Mr Peters: You are correct. Not only that, but the chart we have presented was agreed to with the Ministry of Health. Our report received factual clearance from them, so they agreed that's the correct information.

Ms Martel: Did they have the information when you spoke to them?

Mr Peters: I'm not sure what steps they actually took to verify the information. We sent the contract over in draft in good time and said, "Are we factually correct?" They came back to us, we had a meeting with them and they said, "Yes, what we have here is factually correct."

Ms Martel: I want to be clear; it was the Ministry of Health that confirmed the numbers you have on this chart, the figures, the premiums. The Ministry of health confirmed these numbers.

Mr Peters: Yes. I can give you negative assurance. In other words, they didn't say it was wrong.

Ms Martel: OK, but they gave us a completely different set of numbers at the Ministry of Health estimates on October 9.

Mr Peters: Yes. I don't know how that occurred. One possibility—and maybe I shouldn't speculate, but I will anyway—is that they did not have the contract when they provided the committee with that information.

Ms Martel: Well, they provided it to us both in writing and verbally, in responses to committee questions, to mine and Mrs McLeod's questions.

Mr Peters: I won't go there as to what they had or what they didn't have.

Ms Martel: No, that's not your fault, I know that. It was only because I read into the record later on that day Ms Lankin's comments, because she had actually seen the contract. Ms Lankin's numbers are the same as appear on the chart.

Mr Peters: Right.

Ms Martel: The point I want to make is this: after 500 cases, these folks are getting \$3,250. They're getting that right off the top because they were guaranteed 500. After 750, they start to get \$3,500 for every case, and that's retroactive to case number one. If you compare that to what is being paid by the government in the public sector, which is \$3,000 per case, it is clear that they are making quite a bit of money per case. They are being paid significantly more per case than the government is actually paying in the public sector. Is that correct?

Mr Peters: With one possible proviso: we don't comment on the overtime arrangement for the regional cancer clinics so we don't know how much premium they get if they work overtime and how much more money they get for that.

Ms Martel: Did you ask for that information?

Mr Peters: That is the case information. We did analyze the situation, but there are a variety of payments made to the regional cancer centres. How many of them directly relate to the treatment of these particular patients and to other incentives that are offered to the regional cancer centres is very difficult to sort out, so we didn't do a particular allocation.

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Ms Martel: But if you go to the paragraph above, you say, "The ministry has agreed to pay CCO a one-time performance bonus of \$1.8 million if CCO's regional cancer centres provide radiation therapy to 7% more cases than in the previous year." I understand that 7% is close to 1,500 cases. We were given that in committee that day. Would that be the performance bonus you would be interested in determining if more money is provided per case?

Mr Peters: That would be one element, but there are a number of other elements, such as overtime payments and incentive bonuses that are being paid.

Ms Martel: The ministry provided us with this, and this was the written response in committee. "A 7% increase in new cases would mean that the CCO target for a performance bonus is 1,499. This means that each of the cases beyond the threshold of 21,409 would receive retroactive funding of \$1,200 per case in addition to the base rate of \$3,000 per case." Would that be the information you would be looking for to make an adequate comparison?

Mr Peters: Yes, that works mathematically. In other words, if you take the \$1.8 million and relate it to the number of cases that represent 7%, then you come to the number you've just cited.

Ms Martel: I go back to my original question, which is that it seems to me the government is paying significantly more per case for radiation treatment in the private sector clinic than they are in the public. The bonus in the public system is \$200 after they reach 1,500 new cases. The bonus at the private sector clinic appears to be \$250 right from the start because they were guaranteed 500 cases right at the beginning of operation.

Mr Peters: That is *prima facie*, but there are other payments made by Cancer Care Ontario that we couldn't directly relate to this comparison, like incentives or overtime premiums that are paid by Cancer Care Ontario. This is what the ministry decided to pay.

Ms Martel: You're saying there could be a separate arrangement between Cancer Care Ontario and the private clinic that you were unaware of?

Mr Peters: No, not with the private clinic, but there could be separate arrangements with its own regional cancer care centres where they provide some incentives

or bonuses or other payments to make their regional cancer care centres more effective.

Ms Martel: Do you know that is the case?

Mr Peters: Yes, there are some.

Ms Martel: But you don't know what the nature of them is, what the payments are?

Mr Mishchenko: We know there are incentive bonuses paid to radiation oncologists for exceeding a threshold number of cases per year, but we weren't in a position to analyze that and apply it to the total cost of services being delivered at the regional cancer centres. As well, there are a lot of other costs that may be incurred by Cancer Care Ontario in regional cancer centres that won't necessarily be incurred by the private sector provider. It's hard to analyze those and come up with an apples-and-apples comparison between the two amounts that are being paid for the services being delivered.

The Vice-Chair: Further questions and comments?

Mr Johnson: I had a couple of things I just wanted to clarify. If we're making a comparison between the cost in US before to what this Sunnybrook clinic was supposed to accomplish, in the paragraph on page 8 you have described the cost and the number of patients and they have gotten a per patient cost of about \$18,000 based on roughly 825 a year for those two years. What I wanted to be sure of was, were your costs on that expenditures by the province or on costs for treatment in the States? My reasoning is, I want to know if that \$18,000 is all pure Canadian dollars or if there is a degree of exchange that should be added on to that.

Mr Peters: Yes, it's of course included.

Mr Johnson: I'm sorry?

Mr Peters: What you see is Canadian dollars, so it includes exchange rates for US dollars.

Mr Johnson: It is based on expenditures by the province?

Mr Peters: That's right. It's extra cash flow.

Mr Johnson: OK. The other point I just wanted to clarify—because particularly with mathematics and our English language, they don't always coincide—was in regard to the member for Thunder Bay-Atikokan. When we use the term "the reduction" was going from 32%, I believe, to 31%, I believe someone said that was a reduction of 1%.

Mr Peters: Yes.

Mr Johnson: There are two ways of interpreting that. One can say that a reduction from 32% to 31% is 1%, but indeed a few years ago there was a mechanism designed to increase the provincial sales tax and it was changed from 7% to 8%. The story was that this was an increase of 1% and, indeed, that increase was designed to increase the provincial part of provincial sales tax by about 14.3%. My point is that when we reduce from 32% to 31%, that is closer to a 3% reduction than 1%, depending if it's a percentage of what's reduced or if you just look at the difference.

Mr Peters: No, it's the decrease. It's not quite comparable if you compare it to a tax increase. If you take 1% over 7%, you get a different percentage of course, but

that's not what we're talking about here. We're talking about Cancer Care Ontario having set a target for itself, to have 50% of the patients treated in the four-week period. When we first reported, we reported that 32% were not treated in that period, and now it's 31%. Actually if we were to use your statistics, we would say the 1% is a 3% reduction.

Mr Johnson: My point was, I can take your answer to Mrs McLeod in two different ways, and I just wanted to clarify the way you were using it.

Mr Peters: Mrs McLeod had gone off in one way, and we pointed out that it was a reduction. If we used your statistics, we would have actually a worse reduction—I shouldn't say that.

Mr Johnson: I would argue it's not my statistic. It's a problem we have between the mathematics and the English language.

Mr Peters: I think that's fair enough. I apologize if I made it a personal comment.

Mr Johnson: Thank you. Those are all the questions I have.

Mr Gilchrist: I have a couple of questions. First off, I know they're going to look for every little salacious tidbit they can here, but is it typical that you would have every detail of every contract in every schedule 3 agency?

Mr Peters: That we would have access to?

Mr Gilchrist: Access to.

Mr Peters: Of course.

Mr Gilchrist: You would have right now?

Mr Peters: We would have access to schedule 3—

Mr Gilchrist: Access to, but you wouldn't have. So the suggestion that the ministry would know the details at any given point in time, not if you went in to get it, that the government would have knowledge of every employment contract with every hospital employee, every university professor and somehow this is just a terrible thing that the Ministry of Health didn't know in advance some of these details—would the ministry not be accorded some slack given that on March 15 they wrote and asked specifically, "Have you complied with the Management Board directives?" and not CCO. CCO, relating the comments of their legal counsel, writes back and says, "Yes, we did comply." We can all sit here today with the benefit of 20-20 hindsight and say maybe they shouldn't have trusted CCO. But would it not be fair to at least concede that they did take the steps to verify that the directives had been followed and they were told on what one would hope would be a pretty reliable basis that in fact they had been?

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Mr Peters: There appears to have been some skepticism on the ministry's part, because otherwise one would raise the question as to why they wrote a letter in May saying, "We will rely on the Provincial Auditor taking a look at it." There's certainly some question why they would do that. The other one is yes, you're quite right, in the working relationship between a schedule 3 agency, it depends very much on the interest a ministry takes in the particular operation or the concern. One of the concerns,

and that's what we are raising, is that this was certainly an unusual situation. It was the first time that this sort of arrangement was being made and maybe some expectation of more involvement would be warranted.

Mr Gilchrist: My final question relates to the very title of what you're doing, "value for money," and I want to make sure I've gotten this very clearly from you, because you make some reference in here to barriers that CCO thought existed to their being able to provide—on the bottom of page 2 you cite, "CCO has many agreements with various professional groups, which do not permit the very rapid adjustments required to eliminate out-of-province referrals this year." Facing impediments elsewhere, they went off and found a solution that costs somewhere between \$3,000 and \$3,500. The offset for that was \$18,000 in out-of-province care.

Leaving aside whether they could have done it better—and we applaud your critical comments, and we of course would love to see every dollar spent as wisely as possible. But leaving aside how much better we could have done, would it not be your conclusion that in going from \$18,000 per patient to even the high end, \$3,500, the taxpayers are getting better value today with this clinic than they were by sending people out of the province?

Mr Peters: We did so conclude. Right away, we said the cost is \$14,000 lower per patient, and we did state that in our conclusion.

Mr Gilchrist: You did that on the record too because we clearly have it in your evidence here, and even in Ms Martel's questioning of you, that there would have been overtime payments. Whether it's \$3,000 or \$3,500, we have no evidence that even at the higher end the public sector could necessarily match that price, because we don't know what overtime premiums, we don't know what other overhead costs Sunnybrook would have to take on. At this stage right now, we don't even know whether or not this is the best possible deal relative to the public sector either.

Mr Peters: That's right. That's the point we're raising: CCO didn't know and therefore we don't know—

Mr Gilchrist: That's right. So it would not be fair to conclude that necessarily \$3,500 is a higher cost per patient than if the public sector delivered it?

Mrs McLeod: We all agree.

Mr Gilchrist: Fine.

Mrs McLeod: But the central question stays.

Mr Gilchrist: Fine.

The Vice-Chair: There's a minute left on your time.

Mr Richard Patten (Ottawa Centre): I'd like to move a recommendation for the committee. There are copies for every member. It's in light of the report and the comments of the auditor and our discussion.

The Vice-Chair: Would you read the motion, please?

Mr Patten: Yes. It's a recommendation to the committee:

That this private after-hours clinic (CROS) be considered a pilot project and following evaluation which would include: the effectiveness in meeting the stated goals of (1) waiting times; and (2) cost-effectiveness.

That this be done prior to any further expansion or addition of private clinics.

Mrs Marland: I have one question. Richard, I think you probably want to put a word here—

Mr Patten: Any grammatical recommendations are fine.

Mrs Marland: Where you say “meeting the stated goals of waiting times,” I think you want to say “of improving or reducing waiting times,” don’t you?

Mr Patten: Yes, fine. I’ll accept that.

The Vice-Chair: A friendly amendment?

Mr Patten: Yes.

Mrs Marland: Their waiting times isn’t a goal.

Mr Patten: You’re correct, yes. “Of reducing waiting times,” yes.

Mr Maves: I’m sorry. I’m having trouble having this flow. “... following evaluation which would include: the effectiveness in meeting the stated goals of—”

Mr Patten: “Reducing waiting times and cost-effectiveness.”

Mr Maves: What about the original stated goal of making services available closer to home? That’s got to be in there. That was the purpose for the whole thing.

Mr Patten: OK.

Mrs McLeod: If I may, Mr Chair, the providing of services closer to home is reducing waiting times. The whole notion is to reduce waiting times. The question of whether or not you reduce the waiting times for services provided close to home versus re-referral is not the question here. The goal of the alternative programs was to reduce waiting times. The first alternative program that was put in place with the goal of reducing waiting times was the re-referral program. The private, extended-hours clinic was established in order to end re-referral. Nobody wants to see the re-referral program back in place—God forbid. But the original goal of having a re-referral program was to have a reduced waiting time. So there is still a goal of alternative programs reducing waiting times.

The other part, the cost-effectiveness, is to address the central question, which I think Mr Gilchrist agrees has not been addressed, and that is, is this the most cost-effective way of providing alternative programs that reduce waiting times?

The Vice-Chair: Before we get into too much debate, we’re still trying to sort out the wording of the motion, I believe.

Mr Maves: Yes.

Mrs Marland: With respect, Bart’s comments are to get the right wording.

The Vice-Chair: I didn’t hear any wording suggestion come out of it. I just want to avoid getting into a debate—

Mrs Marland: I don’t think he’s debating it.

The Vice-Chair: Ms Marland, I just want to avoid getting into a debate on the motion before we know what’s before us.

Mrs Marland: I didn’t actually hear a debate.

The Vice-Chair: I’m on your side too.

Mr Maves: Is this your handwriting, Richard?

Mrs Marland: Yes, but he’s an artist, you see.

Mr Patten: Listen, I could have been a doctor and then you wouldn’t read it at all.

The Vice-Chair: The Provincial Auditor might be able to help us.

Mr Peters: If you’d permit me, I know it’s on the record—

The Vice-Chair: I’ll permit you.

Mr Peters: Thank you, Chair. I just have some concern about “further expansion or addition” because one of the areas you may want to address is the unusual clause in the contract which allows them the right to first refusal. I’m not sure whether this would possibly defeat the motion, but it strikes me that some consideration should be given whether their contract should actually be renewed on the same terms. In other words, does the government want Cancer Care Ontario to continue a contract which essentially restricts its ability to find alternative solutions to this particular project? I’m not sure whether you want to address this—

Mrs Pupatello: So that’s just recommending—

Mrs McLeod: We thought this was addressing that very issue. That’s why it’s here.

Mr Peters: It’s prior to renewal or further expansion etc.

Mr Patten: Actually what you’ve flagged for me is “any further private expansion”—no, that’s correct. That’s all right, it’s covered.

Interjections.

Mrs McLeod: Mr Chair, I would have a problem with the auditor’s recommendation. Even though the resolution was intended to try and address the whole issue of further cancer clinics being established with right of first refusal to get at that clause, my concern with putting “or renewal” in is that the renewal period, I believe, is January 1 coming up. If it said there had to be an evaluation before renewal of a contract, that could mean the existing clinic would be shut down. One thing I would hope we would all want to avoid is to shut down a clinic that is providing treatment to patients now. Whatever the effectiveness of alternate programs is in reducing waiting times, whatever the reason the waiting times haven’t gone down, we don’t want to take away any treatment that’s currently being offered close to home.

Mr Johnson: It’s meant in a friendly way, if I could. I wonder, if we left the last sentence off, would that help us a little bit in that very thing, Ms McLeod?

Mrs McLeod: It wouldn’t. We were picking up from the auditor’s statement that the right of first refusal to this particular clinic is a very unusual clause and his comment was, and I’m paraphrasing, that it would have been preferable from being able to do a value-for-money kind of thing to have seen this as a pilot project where a full evaluation would be done before there would be any further offerings. I think the auditor’s quite appropriately said in theory that should also mean before this contract is renewed. My concern with putting “renewal” in is I don’t want to see the current clinic shut down and patients on a waiting list who are now being treated.

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Mr Johnson: My point is, if that's covered in the contract, then we don't have to worry about any other expansion of the—

Mrs McLeod: No, the contract actually would allow expansion on exactly the same terms and to the same provider.

Mr Gilchrist: I'm not unsympathetic with the point Mr Patten's trying to make here. I would have thought, though, that perhaps a more appropriate use of the auditor's time would be to request a subsequent audit to determine the actual cost of providing radiation services in the public sector on a per-case basis.

We now know everything we need to know about this contract. There seems to be no debate about the number of dollars, the number of patients. We know what the overhead costs were. We know all of those things. What we don't have, to deal with the very question, the member opposite agreed, are the comparators. What are the overhead costs divided by the number of patients? What is the cost of the administrator divided by all the patients? What's the cost of the janitorial service divided by those patients? You know how long that list could be. We could talk out the clock here, just going through the things the auditor would have to consider.

If the members opposite want to get to the bottom of whether or not this was a good decision or a bad decision—and quite frankly I would think if the auditor wanted to have the best possible comparator to determine—again, leaving aside the competitiveness in the tendering, which we absolutely agree with his conclusions on, I don't see how anything else moves us along in this debate. I wouldn't want to tie it to holding up expansion of any service, private or public. The auditor's timetable may be very different than the timetable of the contract for CCO's needs, but the bottom line is that until we have that as the benchmark, we'll never know whether or not this is as good a deal as CCO obviously believed it was when they signed the contract.

Mrs Pupatello: I guess I'm asking the auditor; if the motion were to pass that includes the more fulsome audit, I don't know that there's any precedent in terms of a private company walking in and using all of the equipment of an existing public body. When you are looking at the cost-effectiveness of it, you need to weigh use of equipment, wear and tear on equipment, depreciation of equipment, all of those things. The notion that Cancer Care Ontario agreed to pay \$3,500—all they based it on was that it was \$500 more than what Cancer Care Ontario was being paid to serve each patient. It wasn't determined by the estimation of the cost of the private company providing the service. It was simply based on what the government and CCO was agreeing to pay. So the cart's before the horse in terms of your calculations of what the true cost is and then doing a comparison.

In the private sector, a company standard is going to determine that it's cost plus 10% margin, however a private company determines what the price points are. They might have agreed to charge \$3,200, but they're

going to estimate their cost based on equipment, all personnel etc. How do you make a full determination of what it costs to purchase the equipment and/or lease back the equipment in the evenings, their assumption of cost of depreciation of the items? There's no precedent I'm aware of in government that is going to give an appropriate evaluation that takes into account all of those factors.

Just on the motion, I wanted to—

The Vice-Chair: Let's get back to the motion. That's what we're trying to work on here.

Mrs Pupatello: On the motion, I do think Ms McLeod's comments are important in that we can't allow any delay or anything that's going to make the wait times longer by taking away a potential service that's currently available through this contract. What language can we use that's going to give us the time frame, not to simply stop services as of January 1?

Mr Peters: May I answer the question?

The Vice-Chair: Yes.

Mr Peters: Just very quickly, maybe taking into consideration your question and combining that with Mr Gilchrist's comments, would it not be within the purview—rather than relying on an audit by my office, you just ask Cancer Care Ontario to come forward to this committee with its evaluation into cost-effectiveness and then make a decision whether my office should do further work on it. But at the beginning, the issue you're raising is really covered in cost-effectiveness because the unusual feature of this contract is that we're dealing with incremental costs at this particular time. In other words, there's a clinic in the daytime and there's a private after-hours clinic. That could be evaluated and could be reported back to the committee, if you so wished, so that at the end you would make your recommendation that they report back to you on this evaluation.

Mrs Pupatello: What language would you suggest as opposed to "renewal" that isn't going to put it in a crisis come January 1, that the services will stop being delivered by the clinic?

Mr Peters: I think you have persuaded me that that would probably be a showstopper if we put "renewal" in. "Further expansion or addition to private clinics" would probably cover the point made.

Mrs McLeod: My understanding of what you have just recommended is that we would ask for Cancer Care Ontario to bring forward its evaluation prior to there being any further expansion, because the crux is, we have to have something in this resolution that says that some kind of evaluation has to be done before there are new clinics using this clause of right of first refusal under existing terms and conditions. I'm more than happy to have wording that talks about the comparator prices with the publicly run clinics. The wording of my original resolution was that there be a value-for-money audit that would look at the cost-effectiveness of the privately run clinic versus the publicly run clinic. The problem is it's been very difficult to get at that information.

I think the comparators need to be there. I guess my only concern about having Cancer Care Ontario come forward with an evaluation is that they might not be asked to make the comparator with the publicly run centres, and I think that's a very fair comparator. We didn't start out to make the judgment of one versus the other. We just wanted to get the facts out.

Mr Peters: At the time we did the audit, of course they were in operation only for a very few months, as you know, so this evaluation couldn't take place. But I thought you had covered it with the word "cost-effectiveness." I would expect this analysis to include for cost-effectiveness a clear analysis as to what it does cost to provide the services in-house versus by the outside clinic, the private sector clinic.

Ms Martel: I'm not sure we should worry whether or not people will continue to get service. CCO has a contract with Sunnybrook. They're not going to stop that based on whatever motion comes from this committee. They have an ongoing obligation and they will commit to that. I'm not worried about wording from this committee that might have them shut this down.

Secondly, I'm not very interested in having CCO come before us, frankly. Your comments on page 4 that they were trying to keep this as confidential as possible so it wouldn't become a political issue doesn't give me much confidence any more in terms of their providing upfront direct information to this committee, either about this contract or other things they might be up to. I would much prefer to have you do the investigation because you're an independent body and you're not party to the contract. It is not a conflict of interest for you one way or the other to report on the actual details of all of these things.

I would be very happy for you to look at the comparator because I also thought that was what the point of the exercise was. The question for me has never been: are we getting value for money from stopping people from going here because we're having them in the private clinic? I had always assumed we could do this and should be doing this in the public sector. I think the performance bonus you've provided us makes it clear they are being paid more in terms of performance bonus per case than we are in the public.

I'd be very happy for you to make that comparison. The only thing I would ask is, and I'm sure this will be part of your evaluation, that some credit be given where it is due. The public sector owns those assets. I'd be interested to know if, as part of all of this, the private company is paying for use of these assets, because that will change the cost per case, given who owns the assets and who is paying for operating costs and who may not be. If they're getting \$3,500 merely for staff to do the work, which may be the case, and that doesn't include a payment that cancer centres would have to assume themselves in operating in the public sector, we need to know that.

Mr Peters: The answer is, they don't pay for that, but then the regional cancer centres also don't pay for that.

1200

Ms Martel: It would be part of their operating budget, wouldn't it?

Mr Peters: That's right; they are part of the operating budget. That's fair enough; that's in there.

The other brief concern that I have on this is whether the committee wishes to give some direction as to whether they should comply in future with Management Board of Cabinet directives.

Ms Martel: That's a given.

The Vice-Chair: Is that OK, Ms Martel?

Ms Martel: Yes.

Mrs Marland: I think there are some aspects of this that we really do need to discuss. I don't think, however, we want to go down the road about the question of private use versus public use of public assets, because we can go into that tremendous debate about physicians who have hospital privileges having their income relative to the fact they have those privileges. Indeed there are lots of physicians who don't even operate their own offices because they use that public asset, which gives them somewhere to see patients in a hospital, even if they're not full-time physicians in emergency, which is a situation that's always intrigued me: that physicians could have their income without having an office somewhere else. They just bill OHIP, whether they're full-time emergency or they go and see their patients at emergency. So there are a lot of examples where the public assets are used for "private income." If I'm a doctor in those circumstances, it is my private income that I earn as a professional by using the public asset, ie, the building; that is, the hospital.

I just wanted to confirm, Mr Peters, I think you said that at the time you did this—

Mr Gilchrist: Mr Levac?

Mrs Marland: No.

Mr Gilchrist: Oh, sorry.

Mrs Marland: Excuse me, I know whom I'm asking the question.

Mr Gilchrist: I'm watching Steve Peters up there.

Mrs Marland: This contract had only been in effect two months, did you say?

Mr Peters: A little longer than that. It came into being in about February. At the end of February they started operations, so I would say a good six months.

Mrs Marland: OK, I thought I heard you say two; that's fine.

Your reference to the aspect of in-house: there obviously isn't a hospital in Toronto or in the GTA that doesn't understand that there had to be other alternatives found to try to deal with the waiting list. The obvious place to go to try to find those alternatives would be the hospitals themselves that provided those services during the day. Did your staff ask any of those hospitals, and in this case particularly Sunnybrook—

The Vice-Chair: Ms Marland, does this relate to the motion that we're trying to resolve, or are you going back to the committee report? I tell you, the problem is this—

Mrs Marland: No, it relates to the motion, because what I'm coming to, Mr Chair, is the fact that the motion is saying that we're going to now consider this a pilot project. I'm wondering whether, first of all, it would be legal to change the status—I haven't seen the contract so I don't know the wording—with this private clinic. I think actually legally we might be on slippery ground, but I have no idea of the answer to that.

I have some other concerns. We're suggesting that Sunnybrook didn't look for a solution themselves. They've got the equipment; they've got the trained staff. Why didn't they look at evening hours or off-hours, the way this particular private clinic operated after hours?

The Vice-Chair: Well, since there's a pause, I'm in the hands of the committee, but we're all aware of the fact that even though it isn't 12 o'clock somewhere, the House has adjourned and we're going past 12 o'clock. We have to get this resolved very quickly.

Mr Gilchrist: Or defer it to the next meeting.

The Vice-Chair: That's right. It just stays on the table and we pick it up at the next meeting. I'm just saying—

Mr Patten: We could do that. If we want to discuss it more, that's all right.

Mrs Marland: I think we do need some other answers to the questions.

Mr Peters: Just very quickly, the pilot project would not be of concern, because that would be the approach that Cancer Care Ontario takes. There's nothing in the contract that says it is or it isn't.

The Vice-Chair: It's just a recommendation.

Mr Maves: I would also prefer that in the sense that I'd like an opportunity to have a more thorough reading of the report which I received this morning. With Ms Munro, Mr Gill and Mr Hastings, we're the regular members on the government side of the committee and we have been part of the entire Cancer Care Ontario process. I know that they'll want to read this and be part of the recommendations that the committee makes. So I'd be happy to carry it over.

The Vice-Chair: OK, wrap-up comments?

Ms Martel: Very quickly, this committee in all likelihood is not going to sit again till—

The Vice-Chair: January.

Ms Martel: —April, May.

The Vice-Chair: No, no, in January.

Ms Martel: Are we going to deal with it, then, when we sit in the intersession as the first order of business?

Clerk of the Committee: We would have to.

The Vice-Chair: It's on the floor.

Mrs McLeod: The next date of the committee, then?

The Vice-Chair: Those are kind of being determined.

Clerk of the Committee: We're waiting for the House to pass a motion. We've requested in February and March. So if the motion passes by the House, then it's the days that we select.

The Vice-Chair: Thanks for your co-operation. We're adjourned.

The committee adjourned at 1206.

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Mr Ray McLellan, research officer,
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Monday 18 February 2002

Journal des débats (Hansard)

Lundi 18 février 2002

Standing committee on public accounts

2001 Annual Report,
Provincial Auditor:
Ministry of Transportation

Comité permanent des comptes publics

Rapport annuel 2001
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LEGISLATIVE ASSEMBLY OF ONTARIO

ASSEMBLÉE LÉGISLATIVE DE L'ONTARIO

STANDING COMMITTEE ON
PUBLIC ACCOUNTSCOMITÉ PERMANENT DES
COMPTES PUBLICS

Monday 18 February 2002

Lundi 18 février 2002

The committee met at 1030 in room 151, following a closed session.

2001 ANNUAL REPORT,
PROVINCIAL AUDITOR
MINISTRY OF TRANSPORTATION

Consideration of section 3.11, road user safety.

The Vice-Chair (Mr Bruce Crozier): I'll call this meeting of the public accounts committee to order. We have on the agenda this morning section 3.11 of the 2001 Annual Report of the Provincial Auditor, road user safety. We have some witnesses from the Ministry of Transportation, I understand. For the information of yourselves and the committee and those present, you have up to 15 minutes for some opening remarks, if you like, and then we'll just simply start to rotate, probably in 10-minute sessions, to the various caucuses for discussion, some question-and-answer. Is that all right? So for the record, if you'd identify yourselves, and then please continue.

Mr David Guscott: I'm David Guscott, Deputy Minister of the Ministry of Transportation, and I'm joined by Saad Rafi, assistant deputy minister of the road user safety division.

It's our pleasure to appear before this committee this morning to discuss the Provincial Auditor's findings and recommendations and to answer your questions. The findings of the Provincial Auditor in his 2001 report provided the ministry with valuable insight. They have prompted positive change in processes and procedures, resulting in increased efficiency in many areas of the road user safety program. As you will see, we've already made significant improvements and are committed to implementing all of the Provincial Auditor's recommendations in a timely manner.

The chart at your left shows the Provincial Auditor's recommendations in the left column. By the way, there's a copy of this chart for each of you. I hope it's been distributed.

The Vice-Chair: We have it.

Mr Guscott: Thank you. In the left column of the chart it shows the Provincial Auditor's recommendations; the ministry's actions are in the centre column and the extent of completion of that particular item is in the right column. The check marks show 100% completion, and the percentages toward completion are shown for the rest.

The check marks show that a majority of the Provincial Auditor's concerns have been fully addressed. In fact, the ministry has already implemented 79% of the recommendations. Some highlights of our progress so far include reducing the provincial average waiting time for road tests to six weeks; eliminating the backlog of 30,000 medical fitness cases; improving the procedures for acquiring consultants; and issuing a code of conduct to help ministry staff understand their obligations during an audit by the Provincial Auditor.

Before I begin to address specifics of the Provincial Auditor's findings, I'd like to first take a few moments to give you an overview of the responsibilities of the road user safety program. Today, Ontario is home to 11 million people, including eight million drivers and nine million vehicles. The tremendous growth in licensed drivers and vehicles over the last 30 years makes it challenging to maintain and improve road user safety. This graph shows the rising number of licensed drivers versus the declining number of fatalities in vehicle collisions.

As you see by the black line, the number of licensed drivers has doubled since 1973. For the same period, the red line indicates that the number of fatalities has dropped by more than half. In fact, in the year 2000, there were 849 traffic fatalities on Ontario's roads. That's 150 fewer than in 1995, and in fact it's the lowest number of fatalities since 1950. In addition, the number of drinking and driving fatalities has also decreased by about 28% between 1995 and the year 2000.

A number of initiatives have contributed to these improvements in road safety. Over the last 10 years, Ontario has completely revamped its driver testing system. The province implemented the graduated licensing system in 1994, bringing in a two-step process for preparing new drivers by gradually extending their privileges and testing their road skills twice.

We've also brought in a new system to assess drivers 80 years of age and older. It's the only mandatory age-based assessment of driving ability in Canada and one of the most stringent in North America.

We've established innovative ways to better serve the public, things such as Service Ontario kiosks.

To understand the breadth of our road user safety program, consider that in an average week we will administer approximately 11,000 written tests, 14,000 road tests,

2,500 commercial vehicle and driver inspections and five million electronic transactions.

I'd now like to turn to the specifics of the Provincial Auditor's findings. I'll begin by addressing the ministry's compliance with the Audit Act.

During the audit of the road user safety programs, some unique challenges were posed regarding the items requested from the ministry and the audit's timing. The audit occurred at the time the ministry was taking steps to outsource its driver examination function. Detailed procedures had already been implemented to protect the integrity of the vendor selection process. Other aspects of this and similar programs were making their way through the policy approval process and were being considered by cabinet.

This posed unique challenges for the public servants involved. They had to balance the Provincial Auditor's need to access particular documents with the need to maintain the confidentiality of cabinet submissions and the rigorous vendor selection parameters. The matter of access to cabinet material was referred to the cabinet office to make the appropriate determinations regarding these documents. The Provincial Auditor and the secretary of cabinet ultimately developed a protocol for such requests.

Other issues raised during the audit pointed to a need for greater clarity in informing the staff of our expectations in their dealings with the Office of the Provincial Auditor. At the minister's request, we developed a code of conduct to guide the interactions of staff and the Provincial Auditor's office. Staff are now being trained in this code.

I want to focus on the second major theme, that of road user safety. With strong support from the policing community and our broad network of stakeholders, including anti-drinking and driving groups, the medical community and other partners, the road user safety program helps to promote safety throughout the province. It raises public awareness of issues and encourages changes in driver behaviour and attitudes. Ontario's graduated licensing system, which I referred to a few moments ago, has resulted in significant decreases in the number of collisions involving beginning drivers; our new senior driver assessment and education program has also improved safety; and Ontario has introduced some of the toughest drinking and driving and commercial vehicle laws anywhere in North America.

It's evident that new vehicles and new technology are making cars and car travel safer around the world. Ontario's approach to road user safety, supported by stringent laws and delivered in partnership with police services and safety groups, is making our roads even safer by changing road user attitudes.

The success of the combined efforts of the police services, safety groups and MTO's programs is shown in this chart. Here we see the fatality rates for selected countries and Ontario. Not only does Ontario have the safest roads in Canada, we also have the second-safest in North America, and, as you can see from this chart, we

fare exceptionally well compared with other international jurisdictions. If you can't read that chart from where you are, the United Kingdom, Sweden and the Netherlands were the only jurisdictions with lower traffic fatalities in the year 2000 than Ontario. Ontario is on the far right.

These results are due in large part to key safety programs such as our graduated licensing system, administrative driver's licence suspension program, vehicle impoundment, RIDE programs and public education programs. They are cornerstones of our road safety efforts.

The Provincial Auditor also cited some concerns regarding drinking drivers. Since our administrative driver's licence suspension program aimed at drinking drivers was initiated in 1996, the ministry has processed over 104,000 90-day suspensions for drinking and driving violations. Integral to the success of this program is the ability of the ministry and the policing community to share data and coordinate activities in a timely fashion. The government is working with the Ontario Association of Chiefs of Police to develop the necessary improvements to streamline reporting requirements. We've put in place the necessary checks and balances to effect timely processing of these suspensions.

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The Provincial Auditor also brought up the issue of medical fitness cases. Our medical fitness program is carried out in consultation with the medical community and follows standards set by the Canadian Medical Association. Determining whether or not to revoke an individual driver's privileges is obviously a very serious decision. It can have a significant and lasting impact on the individual's life and deserves thorough review and consideration. As such, we draw upon the expertise of many specialists in areas such as cardiology and neurology before making a decision. To improve our medical review program, the ministry has over the past few years increased staff resources and introduced improved technology. As a result of these changes, and without compromising the integrity of the review process, all of the backlog in medical fitness cases has been eliminated. Staff are now working on current cases only.

I want to focus next on the area of controllership, where the Provincial Auditor expressed concern regarding procedures for hiring consultants. In response to the Provincial Auditor's findings, we've made our hiring practices for consultants more stringent, beyond existing requirements. Through a competitive tender, Management Board has established lists of vendors who can deliver particular products and services. Ministries may procure specialists from this list knowing that a competitive price and a check of expertise has already been made.

As part of our comprehensive response to the auditor's recommendations, we have instituted a secondary competitive process that now requires staff to solicit quotations from at least three prospective firms selected from a vendor-of-record list. It means these consultants must pass a double test. First, they have to be accepted as

vendors of record, and then they must win the competitive process against two other prequalified firms. We're currently training staff on these new procurement procedures.

The Provincial Auditor also addressed issues of customer service. I've already mentioned the high volume of interactions of the road user safety program with the public. In total, in a typical year, they amount to almost 20 million transactions and tests. We strive to provide excellent customer service in all of these activities. Not unlike other service providers, we survey our customers to gauge their satisfaction with our service. Our most recent customer surveys, in 1998 and 1999, show an overall satisfaction rate of about 85%. We're exploring ways to improve our response to customer feedback, such as comment cards, as noted by the Provincial Auditor.

I'd like to conclude my remarks by stating that we continually strive to improve the way we deliver products and services to the people of Ontario. The Provincial Auditor's report has been a catalyst for positive change. These positive changes are promoting effectiveness and efficiency improvements within the road user safety program. As I mentioned earlier, we have already implemented 79% of the Provincial Auditor's recommendations and we're well on our way on the remaining 21%.

We thank the Provincial Auditor for providing us with his recommendations and we wish to assure this committee that the Ministry of Transportation is fully committed to implementing all of the Provincial Auditor's recommendations.

The Vice-Chair: Thank you, Mr Deputy Minister. If that concludes your remarks, then I would suggest that we'll move around through the caucuses in 15-minute blocks, and through a very complicated method I've come up with, the leadoff being from the government caucus.

Mr Bart Maves (Niagara Falls): I'll start. Can I ask the auditor a quick question? In the report, you talked about the backlog of medical cases, medical files of people who were either going to get licences suspended or were going to get licences back. Most of the cases I deal with in my office are people who have had their licences suspended and have been cured, or their doctor is ready to say that they can get their licence back. I know that there's a whole process at the ministry to get licences back. So, of those 30,000 cases—you mentioned the backlog a while ago—do you know what the breakdown was of people waiting to have their licence actually suspended because a doctor said it should be suspended, and how many are actually cases where people are waiting to get them back because a doctor said they're cured?

Mr Erik Peters: No, we looked at the procedures. We looked at the cases that are provided to the ministry by medical practitioners and optometrists and people like that. We didn't look at the individual cases at all.

Mr Maves: OK, so we don't know the breakdown of how many were to get licences back and how many were to get licences suspended.

Mr Peters: That's true.

Mr Maves: Does the ministry know that number by any chance?

Mr Saad Rafi: We'd have to get that number for you. We do segment them into low- and high-priority cases based on whether they need immediate suspension on the Canadian medical standards or whether they are, for example, reporting back to us if they have been error-free, if I can use that term, on an annual basis if that's what was required of them.

So we try to segment them as well. I don't have the breakdown of the 30,000 at my fingertips. We can try and get that for you.

Mr Maves: You do 150,000 a year? Is that the number? You process that many medical cases?

Mr Rafi: No, I think that our numbers are probably about 92,000 cases per year. Certainly in the last year we tackled some of that backlog.

Mr Maves: OK. Now I'm going to go back to the Provincial Auditor again. When you said there was a backlog of 30,000, how do you determine what's a backlog? Is it six months from the time it was first brought up, or three months? How do you determine that backlog?

Mr Gerard Fitzmaurice: The ministry had determined the backlog. Their procedure determined if someone has a medical record outstanding that they have to review or reinstate. It's their number.

Mr Maves: OK. So I'll ask the ministry then: how do you determine that something is a backlog? Is it like the file's come in and it's been sitting for more than a day, more than a month? How do you determine if something's a backlog and not just a typical time to wait to be processed?

Mr Rafi: Essentially, we're prioritizing our cases, and they're a function of Canadian medical standards. So when a case comes in, we look at it from the physician's review of the case. The physician has sent in a completed form that indicates there is a particular medical condition. We look at the Canadian Medical Association guide or the National Safety Code guide, which are one and the same type of information. The staff scan that to determine if this is a high-priority case, meaning that type of condition should be put for suspension of driving privileges. Those are put into a high-priority section. When we have—and we did have over the last few years—such a volume that we aren't able to process cases at a pace that we would like, they end up getting put in a queue. They're put in that queue predominantly based on a low-priority assessment, and again, that is a function of the medical practitioner's assessment of their patient. If our staff are beyond their expertise in understanding that, we refer it to a medical advisory committee.

So the backlog, as it has become known, builds and became built because of the volume of a cases we were getting in and, quite appropriately and quite openly, an inefficient method of assessing those cases, which to this point we have tried to grapple with and have addressed

by improving our business processes as well as user technology.

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Mr Maves: OK. I'm just trying to determine, though, when we say there's a backlog, how you define a backlog. Practically speaking, doctors are sending in recommendations to suspend someone's license because they're having seizures or something like that, or they've had strokes, and at the same time, doctors from all over the province are sending you applications to release someone's license from suspension. So the paperwork comes in, and obviously the day that it comes in it doesn't go on a desk to have a panel of doctors look at it. Usually—I've had lots of people who have dealt with this process—the ministry doctors need more information, so it goes back out to the person's doctor for more information. To me, when you get an application in, there's got to be a certain amount of time that actually should elapse for that application to be processed, maybe a couple of weeks, depending on how much more information is needed, maybe a month.

So when I hear that there's a backlog, to me and, I think, members of the public, that means a file has been sitting around for a really long time and there's a really big, long backlog for these cases to be dealt with. Anything probably beyond a month or so I think you would define as a backlog, and the public would kind of raise their eyebrows at why. However, if it was just a snapshot of how many files we have in our desk right now—it's 30,000—a lot of those could have been just sent in or a couple of weeks old. I'm just curious, since the auditor's office says you define backlog for them, how you determine that.

Mr Rafi: You're quite right. The cases are processed and currently we are processing reinstatements as well as suspensions in a three- to eight-week period. The variance in that period depends on further requests for information and explanation by physicians. But if it is a straightforward case and there's enough detail provided by the physician, we are moving to, in some cases, reinstate and/or suspend as soon as possible.

I think that the situation where a backlog exists is because cases build up over time, and we had a situation where we needed to process the low-priority cases. But we were getting such a volume of high-priority cases that we concentrated on those, so these other cases built up to be dealt with in the time that one would have. It's akin to assessing your highest-need clients for either reinstatement or suspension to work toward road user safety standards. Those cases that are reporting in, for example, on an annual basis, as they might have been required as part of their reinstatement, would be put to the back of the queue, and that queue builds up.

Our view was that we tried to address the priority cases in a priority manner. The low-priority cases, regrettably, mounted, and we have tried since then to eradicate them.

Mr Guscott: If I can just add, the backlog has been alluded to as well. There were a couple of significant

events that triggered that situation. There were a couple of court cases in which doctors who had not reported medical conditions to the ministry were found liable when individuals were involved in accidents, and this caused doctors throughout Ontario to become more aware of their obligations in law, and increased, I believe, almost 50% the number of notifications that we got from doctors. You can appreciate that the dramatic increase over a very short period of time in itself created a backlog that we had to deal with.

Mr Maves: So the 30,000 number came from a snapshot in time of how many cases were pending. This 50% increase in the amount of applications for suspensions started when?

Mr Rafi: I would say that they started to build up approximately from 1996. There were a couple of court cases in 1994. We had reached out to the medical community and so, starting in 1996, we saw an increase, I think it would be fair to say, that culminated in about a 50% increase year over year.

Mr Maves: You've taken some steps, I've noted, to address this situation. So today if I took a snapshot, I'd have a backlog or—how many cases on the desk now?

Mr Rafi: With our three- to eight-week turnaround time frame, which again is down dramatically from what it was two years ago, we don't feel we have a backlog. We are processing cases from January of this year, so they fit within the three- to eight-week time frame. We are processing cases now and have eradicated that 30,000 backlog. Our current number of cases before us is, I believe, as of last week, a little over 1,300.

Mr Maves: OK. It might have been interesting, Auditor, to find out, of that basket of 30,000, what some of the stalest ones were and if there had been a rationale for that.

Mr Fitzmaurice: From that, 950 dated back to 1997, and 6,500 dated back to 1998. As you come forward in time, the numbers get greater.

Mr Maves: And what were the rationales for some of those?

Mr Fitzmaurice: We didn't look at individual cases because we had some question about whether we should be looking at people's medical records, so we just thought we'd accept the number as the ministry had stated it. We didn't review the individuals to see what the reason was, why they were on the queue.

Mr Maves: I'm assuming that for some of those an application would hang around that long because nothing had triggered the stopping of the application, or something had delayed the further processing of the application, like the doctors or the person involved no longer responding to getting the licence back or having it suspended.

Mr Rafi: Yes. The 1997 and 1998 cases that were quite rightly identified by the auditor we consider to be low-priority cases. When we went to address those cases, the majority of the 1997 cases, I believe some 60% approximately, were reporting that they had met their medical conditions, for example. Many times when we

reinstate, we may require an individual to submit an annual statement from their physician saying that they are free of this particular malady or situation, or, for example, it's a fracture that has subsequently healed and they're able to drive. In addition, in some other cases they were still considered low priority; they might be situations where they were unlicensed for over three years so they had to go back through the graduated licensing system to get reinstated to get a driver's licence and were, again, considered low priority in the medical area.

It was part of a process where we would assess and, if you will, make our determinations based on the CMA guide for two priority areas: reinstatements and suspensions that were obvious and/or through quick investigation with the medical community indicated the person should not be driving or indeed they should have their licence reinstated. So the one-year renewal example that I used, if I could call it that, was an example where the person is reinstated; they are submitting a one-year renewal statement.

We've made other changes, if I could address those.

Starting in 1999, we looked at our business processes. We redesigned those business processes by asking staff to take on different roles. For example, our senior medical analysts, who have more experience, would provide assistance to our junior analysts so that they would become qualified and able to assess cases in a more expeditious manner.

We introduced an integrated voice response call centre type of system so that when an individual calls in—we were finding that 23% of calls were from people wanting to know the status of their particular case, so we put some message tracks on there to let people know that they should expect turnaround times of this magnitude, and that then slowly dropped over time.

We improved some of our technology so that we could take our older systems that have the data of the individual drivers and combine those with the more modern software applications that process everything from the letters and forms that go back to the individual and/or their physician.

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Last, we hired additional staff to get trained to then deal with not only the incoming volume of cases but the backlog we've been speaking about. With those measures, along with our own observation of the demand and pressure in this area and along with the findings of the auditor, we were able to address the backlog of cases and also we're able, at this point, to be at a cycle time of three to eight weeks, down from 12 to 16.

The Vice-Chair: I would ask that we move on to the next caucus.

Mr Peters: I just raise a quick question on follow-up. In our report, and that was cleared with the ministry, we had 150,000 in 1999-2000. Is there a drop-off now to 92,000? Is the 92,000 that was in your mind a more current figure? Is there a drop-off in medical reports that are coming in?

Mr Rafi: I would say that was the volume, in that one fiscal year, of cases coming in and cases being dealt with. I'd have to verify against the 150,000.

Mr Peters: Right. We sent you the 150,000, we had agreed that it was 150,000 at the time, so I'm just trying to understand the difference between the 150,000 and the 92,000. That would help the committee, I think, to understand the situation.

It's quite possible that it may all be in—the case, for example, that Bart has mentioned. Just a question: it may be the other cases that are in over the—

Mr Rafi: Yes, and it could be that combination. We'll try to get to that reconciliation.

Mr Peters: It would be very kind. Thank you.

The Vice-Chair: Next caucus.

Mr Pat Hoy (Chatham-Kent Essex): Thank you very much. I want to thank the deputy and the assistant deputy for being here, as well as the auditor and his staff.

You've just partially addressed my first question, which was the discrepancy between 92,000 and 150,000 persons on backlog. Deputy, you, with your counterpart, say that except for about 1,300 people now, you've eliminated the backlog of not only the 950 persons the auditor cited dating back to 1997, and some 6,500 cases dating back to 1998, but you have eliminated the backlog since the auditor's report on these cases. To date, you have eliminated somewhere between 92,000 and 150,000 people on backlog. Correct?

Mr Rafi: Actually, I would say that we have eliminated the backlog of 30,000 and have been able to keep pace with the volume of cases that come in on an annual basis. In other words, we're keeping up with our volume and have managed to address the backlog that was in place.

Mr Guscott: If we could, just to help with that too, the method that was used to do that involved a situation where you have a large backlog—I think this is what you're getting to—and you actually end up with an awful lot of calls coming in from people wondering where their case is etc, so we changed the method of work. We changed the work the senior advisers were using—the junior advisers were handling the phone calls; the seniors were dealing with the more difficult cases etc—and we broke the cycle that was keeping us from getting to the cases by having to do the follow-up about why the cases weren't done. It was the workflow change that made this happen.

Mr Hoy: You've entered into my next line of questioning, then. If you say now that the work has changed, have you hired more staff to deal with this backlog?

Mr Rafi: Yes, we did. We not only hired more staff but a total of 10 analysts who have now been fully trained and a couple of additional support staff and one I would call a supervisory level. I believe that's 14 or 15 staff. It took some time for them to be fully trained in how to do these assessments. We also, as the deputy mentioned, made some business changes or workflow changes that brought our cycle time, which was a very high 12 to 16 weeks, down to anywhere from three to

eight or five to eight weeks, depending on the complications associated with a particular case.

We also reduced our call abandonment rate by using a method of call centre or IVR, integrated voice response, where we had people waiting a great deal of time to find out the status of their case, and also to get a sense of what was outstanding information. Perhaps they weren't familiar with the requirements we had mailed to them. We reduced that down to an 8% abandonment rate, which is very much in keeping with other industry norms.

In addition, we have undertaken a change in our imaging system and we are able to image the documents as opposed to having to send them around to get batched and then have letters prepared. The analysts can both look at the file as well as prepare the response. We have templates available for staff to use to save input time, and we hope to make further technology changes into the future.

Mr Hoy: These 14 persons you're talking about, are they new to the ministry or are they reassigned from elsewhere in the ministry, or a combination—

Mr Rafi: They are new to the ministry.

Mr Hoy: They are all new persons?

Mr Rafi: They were new employees to the ministry.

Mr Hoy: They're not reassigned from somewhere else in the ministry?

Mr Rafi: No, they were new positions. Someone may have applied and left a particular position to take this position, but they were not additional positions for the ministry.

Mr Hoy: In light of what the auditor has put forth with some of these cases going back to 1997 and 1998—you cited an increase of some 50% of these types of cases—have you looked at the demographics of Ontario and what might occur in the near future in light of the fact that the ministry was quite a bit behind and there was potentially some risk to drivers on our highways that are fit? Have you looked at the demographics here in Ontario? We have an aging population. We have what is known as the baby boomers coming along. The incidence of medical problems may increase, one might think. Have you looked at how you might be prepared for the very near future in light of the fact that you had such a great backlog of some 30,000 and we're faced with an aging population?

Mr Rafi: Yes, absolutely, we have looked at that fact. If I could mention a few things, one would be not only a demographic shift in North America and certainly in Ontario, but perhaps also other medical conditions that come up from time to time and that might be added to our requirements for suspension.

We feel that has been mitigated by the additional staff, firstly. Secondly, we feel that has been mitigated by our workflow changes. Third, we will continue to make changes to our call centre approach or the phone line approach that allows one to access information at least on status and also then focuses our calls so that the right level of individual is speaking to the caller and giving

them the information they need. Last, if funds permit, we hope to add further technology enhancements that will allow us to have access to the individual file as well as the response to that file, and also improve our access to the medical advisory committee or the medical advisors, who are specialists in their fields, so that they may have access to records, because they are of course cleared from a confidentiality point of view to do so, and they could be made to have better access and thereby provide better assistance to us. We hope these measures will be able to keep pace.

The last thing I should mention is that we have been working with the Ontario Medical Association also to ensure that the form they use is more clear for their purposes. This was a measure that they had identified, as did we, and we worked with the Ministry of Health and Long-Term Care and the medical community on what they call a forms committee to streamline the form and also to make it more clear for physicians to do reporting. That will hopefully reduce our cycle time, because the information provided will be that much more specific and will allow the analysts on our staff to deal with reinstatements and/or suspensions appropriately.

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Mr Hoy: From the previous answer, I believe, from the auditor, your ministry determined the definition of a backlog. Is that correct?

Mr Rafi: Yes. We identified the number of cases that we had in that queue, yes. We called that our backlog cases and I believe the auditor's staff used those numbers.

Mr Hoy: Have you changed the definition of a backlog from the time of the auditor's report?

Mr Rafi: No, actually, we eliminated it. We didn't redefine it as a method of elimination; we eliminated the backlog cases and we will keep the definition as a measure for us to follow to ensure that, if they start to mount, we are having to take remedial actions to address it.

Mr Guscott: It's a useful concept, the backlog, for our purposes because it becomes the trigger point. It's the red light that goes off when the number of cases coming in and the time that we're clearing the cases that we're dealing with are such that there is a back pressure being created. We always need to know where that is, so we'll maintain a very careful watch on ensuring that we're able to clear as many cases as are coming in.

Mr Hoy: I think it relates to the line of questioning that has taken place so far. Under the "Administrative Driver's Licence Suspension" or the ADLS, the auditor in his report said that from the time of the program being introduced in December 2000 "over 400 drivers had their suspensions rescinded because the ministry did not receive notice to confirm it. This posed a safety concern because it allowed drunk drivers to have their licences reinstated before the required time and before any remedial action could be taken."

In regard to that program and the auditor's comments, what is the progress on ensuring that the public is safe

from persons who should have had their driver's licence rescinded under a drunk driving violation?

Mr Guscott: The Provincial Auditor's observation went on to point out that the reason those 400 drivers had their administrative licence suspended was due to the fact that the ministry didn't get the necessary paperwork from the police service involved. That's a concern to us and we have taken particular steps generally and specifically to see that that doesn't happen.

Because it's an administrative driver's licence suspension, there is no court aspect to the inducement. It's administrative and there is no day in court for the individual involved, so therefore the paperwork that goes along with this procedure is very important. In fact, without the paperwork, it would be nothing but a phone call from the police officer who makes the arrest to the ministry. That would be it. Our requirement and our standard is that within seven days the police officer has to have submitted the paperwork that allows this submission to take place. Mr Rafi will go through the steps that we take in a few minutes to make sure that happens.

I did want to point out that there may have been a misunderstanding by some reading the headlines associated with this that this would mean someone got off scot-free. The police in fact charge someone with a Criminal Code offence related to drunk driving. They administer the administrative driver's licence as an immediate 90-day suspension. If they don't get the paperwork in to us on time, two or three weeks later that individual gets their licence back, but unless the police have dropped the drunk driving charge, they're still charged with drunk driving in that situation.

I'd like Mr Rafi to take you through and explain to the members the steps we take to ensure that we get the paper all the time now and not in the 0.4% of the cases that were mentioned.

Mr Rafi: Our process is, the day after the call is made to our centre—which is 365 days a year, 24 hours a day—we follow up a phone call to the investigating officer to ask her or him for the documentation. If we don't receive it in the next day, we follow up again with a phone call to the investigating officer to make sure they are aware that this is a defined period of time and that we need a response in a timely manner. On the third day, we fax a list of the outstanding, notices to registrars, if there are any from previous days, this paperwork and documentation to keep the veracity of the system in place. We fax that list to the Canadian Police Information Centre to determine perhaps if only a copy was sent to them, and that will allow us to get a copy that would satisfy our needs and requirements. Then we actually, if that is insufficient, would write to the chief of police or detachment commander of that particular force that was initiating the administrative suspension for a reminder of this notice to registrar, and then we would subsequently follow that, the outstanding list, to CPIC for further follow-up should it come in at a later period.

We can accept and have accepted these notice to registrars after the seven-day period, but it was felt when

it was first structured in consultation with the Ministry of the Attorney General, the Solicitor General, the Ontario Provincial Police and the Toronto Police Service, as well as the Ontario Association of Chiefs of Police, that a seven-day period was a sufficient length of time to allow for the processing of these cases and to get the paperwork in, yet it was also not too long a time to ensure integrity to the system that was administrative licence suspension. As of last week, we've had 104,000 of those that have been successful since 1996.

Mr Hoy: Thank you for your answer. Now, it would appear to me that in order to resolve the medical fitness report situation that the auditor mentioned, the ministry hired more people in order to deal with the situation. Is there any need for that in the ADLS system? Do you need to hire more people to achieve this seven-day period and ensure that these suspensions actually do take place?

Mr Rafi: It's our estimation that given the—and again, one of these is not a situation we want to have, and 400 is a large number, no doubt, but on the total volume of cases that we've had since 1996, we do not feel that this is an order of magnitude that is an issue of a lack of staff resources, but rather perhaps a re-emphasis and reinforcement of the procedures that are necessary to ensure that what is happening in a majority of the cases is actually going to continue to happen going forward. We feel that we have the checks and balances in place.

The Vice-Chair: Thank you, Mr Hoy. You'll have a further opportunity, I'm sure, if you like. But, Mr Prue, do you have any questions?

Mr Michael Prue (Beaches-East York): No. I wonder if I could just do a rotation. I'm just here substituting for Howard. He's in a press conference; he'll be back shortly.

The Vice-Chair: OK, we'll keep going.

Mr Maves: He has time for a press conference?

The Vice-Chair: Yes, what's that all about? No, never mind.

To the government caucus.

Mr Maves: Just continuing with the roadside suspensions, that's a program that started in 1996, and since 1996 you've had a total of 90,000?

Mr Rafi: At the time of the audit, I believe it was 96,000. Since then, I think the number is 104,000.

Mr Maves: OK. And out of that 96,000, 400 was the number of people that the auditor said got their licence back because you didn't get the paperwork in time from police forces?

Mr Rafi: I believe essentially yes, or that the administrative suspension did not take place and we took it off of our system because we did not get the notice to registrar.

Mr Maves: If an officer gives someone a roadside suspension and for whatever reason doesn't follow through with the paperwork within the required seven days, can that officer reapply for that suspension and then submit the paperwork, or is it—I realize that the charges aren't dropped. I understand that, but I'm just wondering, if he missed the seven days, can he reapply for the same roadside suspension and file, or is that—

Mr Rafi: With the process that we do through follow-up, perhaps the officer and their commander or chief would get the paperwork in on the eighth day or the ninth day, and we would want to receive that and accept it. There might be an issue of a challenge, but that challenge would have to be sought by the individual. So we would accept it. The seven days was instituted to provide the right tension between making sure that we have a system with some integrity and also making sure that—you know, these can happen at night, shift changes. Trying to accommodate those shift changes was a recommendation, accepted by us, from police forces as well. So yes, we would like to accept it. When we get that information, it would have to be within a reasonable period of time.

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Mr Guscott: If I could just add, that's part of the reason for us notifying the commanders and the chiefs involved. For example, if an officer is on a special assignment or is reassigned between the time that the administrative driver's licence was applied for and the paperwork was done, we'd take that into account as well. What we're really looking out for is the situation where we have no paperwork to support the application. If we heard the person was on other duties, in fact there is an authorization that other members of the force can apply for them if they have certain qualifications. We try to be as reasonable as we can to facilitate that information getting to us.

Mr Maves: OK. I have a two-part question on the second one here, and I guess I'm asking you to tell on somebody: (1) are there any police forces that were particularly guilty of not following through on the paperwork; and (2) can you outline some of the steps you've taken to get some of these forces to improve where they're having difficulty with the paperwork?

Mr Rafi: I don't know if there's a force that is particularly lax in their submission of paperwork. Again, judging by the volume of the roadside Breathalyzer and drinking-and-driving initiatives across the province, and again judging by the volume of cases, I don't know if it's any one force over another.

On the second aspect of your question, which was regarding the initiatives we've taken since this discovery, we contact the Ministry of the Solicitor General on a regular basis, but in this case we also chose to work with them quite deliberately. Through their policing services division, they have sent an all-chiefs bulletin out, which is their method of corresponding and providing information to chiefs of police across the province as to their responsibilities in joint initiatives like this one. They have indicated that they have sent out an all-chiefs bulletin emphasizing the need to ensure that the NTR, as it's called, the notice to the registrar, is completed in a timely manner. We're hopeful that this, along with our follow-up system, will keep this a successful program.

Mr Maves: Can I switch gears now and go to your computer system, your information technology? In the audit, the 30-year-old legacy system is one you're replacing. Can somebody just give us a quick overview of

what this system currently doesn't do and, in your replacement of it, what improvements you're looking for? Is the IT guy here?

Mr Guscott: We'll try to answer this, Mr Chairman, without using the IT guy. We'll keep the jargon as low as we can.

The Vice-Chair: Thank you.

Mr Guscott: The computer systems we're talking about date back to the 1960s and 1980s. They're built on computer languages of those eras. They have held together very well through many changes and upgrades, which have really taken them to the life of both their physical equipment and their software. We've got a chart somewhere—we're just getting hold of it now—that will show you what the computer system was used for 10 years ago and what it's used for now.

This computer system has within it two types of things. It relates to the vehicles and to the drivers and has addresses as a very important part of it. Those addresses and the privilege of driving a car or using a permit have links to other government programs. Ten years ago, we had a few links to those other government programs. You can appreciate, with an old-fashioned computer system, with equipment that wasn't upgraded and with a computing language that wasn't amenable to change, that as you add on to that, you're adding on to something that's quite vulnerable to begin with.

If we take it from what it was 10 years ago to what it is today, just to see how many more government programs have been spliced on to that, there are, for example, things that hadn't even been thought of 10 years ago. The Drive Clean program is completely integrated into this. You can't get your vehicle permit renewed unless you have your Drive Clean pass. That means we have to connect the Drive Clean computers into our computers to make that work. If you are behind in support payments and have an order from the court that's enforced by the Family Responsibility Office, you can't get your driver's permit renewed. That has to be tied into this.

All in all, there are 13 ministries and 36 programs that are now tied into that computer system—again, a computer system that was developed in the 1960s and the 1980s essentially to handle drivers and vehicles and really nothing more than that. So we've maxed out. We've done a good job of managing that old equipment and its situation to the point that now, like anything else, it's time for a change and a renewal. That's something we started, but stopped. We obviously didn't do any work through the Y2K era; we had our emphasis on other issues at that time. But we have in fact been looking toward the changes and the upgrades to this equipment to follow, and we have done considerable work on that. At the time the Provincial Auditor was reviewing this, we were right at the point of getting our kickoff from Management Board to get going on some aspects of this. We're underway with that now, and we look forward to having a new system.

Mr Maves: OK. What stage are you at in the process of replacing it: completing the business case, preparing

the tender? What stage are you at at this point? What are your timelines for the project?

Mr Guscott: We are into the first quarter of the project in terms of three or four; I'll ask Mr Rafi to give you exactly the steps we're at. We've achieved some of them, we're into others and we're just now getting our permission for the second phase of it.

Mr Rafi: What we went to Management Board with was a general scoped-out plan that had our strategy options to consider. We had approval for in-year changes and for the first year, fiscal year 2001-02, ending this fiscal year. The first changes that needed to be made were as the deputy referred to: we were coming to the end of what's called the "useful life" of certain hardware and the terminals that actually processed much of our over-the-counter work, and so we needed to prioritize those and replace those. That is unfolding now. I believe all those terminals across the province are on schedule to be replaced by the end of the fiscal year.

In addition to that, we asked for and were approved to be able to delve into and develop very detailed architecture and software application replacement and updating plans, project by very specific project. This is actually three databases of 100 million records that process—I believe it's in the report—some 250 million transactions per year. So while the overall and original submission was a general estimate of need, we only had approval for a little bit of last fiscal year, in-year; and for this fiscal year, we need to report back through our business planning exercise to get into the very specific and detailed plans.

The further replacement of the software and the database management to make sure this is a phased migration—that was the option we recommended and chose because of the interconnections to several ministries and a multitude of initiatives and, I dare say, partners outside of the public service and the Ontario government. We felt that to try to replace all of this at the same time would be dangerous and would probably not make for a good investment of money, because a phased approach allows you to take best advantage of the best improvements you can get at the time you're examining that project. This is an industry, I think as we all know, that makes such rapid improvements and changes to its technology and to how it does business that something one would undertake now, if not in a phased approach, might find itself to be somewhat challenged later on.

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Mr Maves: Do you have timelines in mind, then, for total replacement and implementation of that?

Mr Rafi: Yes. The total end date—it would be approximately a four-year project. Again, it would be phased in each year and we would have to seek approvals each year, what they call our report-backs.

Mr Guscott: I might just add that major parts of it need to be finished in 2003 to meet the government's commitment to e-commerce and some of the things that need to happen in that area; in 2003 and the rest of it in 2004.

Mr Maves: OK. The auditor was critical of the fact that you didn't have a business case completed when he did his audit. Will your business case also be something that comes in phases or will the business case that gets completed be for the entire project?

Mr Rafi: I would say that the Management Board submission was an overall plan and a business plan. So a strategic plan and a business plan. The strategic aspects to it were the options that one could examine and the recommendation we made. The business plan was to lay out in the early years what we planned to do and what was necessary to do now and then in the later years the type of project, the type of changes that we would have to make going forward. But the drill down and really the business case on each one of those projects in what we call the out year—so 2002, 2003 and so on—would have to go back to Management Board for report-backs so that they could approve this in a phased approach. They gave us only a notional approval for the fact that they realized that we have a four-year planning horizon and that they know we'll be returning on an annual basis to see them for year-over-year changes that they will approve based on our phased migration strategy.

Mr Maves: Chair, do I have any more time here?

The Vice-Chair: You have a minute.

Mr Maves: I wanted to get into a whole other section, so I'll let it go, and if it comes back, get to it.

The Vice-Chair: Sure. You're passing to Mr Hampton.

Mr Howard Hampton (Kenora-Rainy River): I have some basic questions, and I apologize if some of them have been covered before. They're just basic questions I'm trying to get my head around. I first want to ask about the road user safety program. Just for interest, could you tell me what the road safety user program budget was within the Ministry of Transportation for 1999-2000, and then for 2000-01, and then 2001-02, and could you tell us what your likely budget will be for 2002-03, for those fiscal years?

Mr Rafi: I hope I can give you the accurate figures. The year-by-year, I'll have to make sure that they're accurate, so I'd like to get back to you while you're still here, through the Chair.

Mr Hampton: Maybe the auditor can give us those numbers. I'm not sure.

Mr Rafi: I have the 1999-2000 figures, including our salary and our other direct operating expenses. We expended approximately \$140 million. We can get the exact figures.

Mr Hampton: So that's for 1999-2000, \$140 million?

Mr Rafi: I believe so, yes.

Mr Hampton: That's salary plus other direct operating expenditures?

Mr Rafi: Yes, that's correct.

Mr Hampton: So what's your sense for 2000-01?

Mr Rafi: If I might, I'd like to make sure we can get those figures for you. I don't have them at my fingertips.

Mr Hampton: OK. Does the auditor—do you have those numbers?

Mr Peters: We just have the numbers for 2001, which was \$101 million in costs and \$894 million in revenues.

Mr Hampton: So it was \$140 million in 1999-2000 and \$101 million in 2000-01?

Mr Peters: Yes.

Mr Rafi: If I might add, Chair—I'm sorry to interrupt you—that wouldn't include our carrier safety and enforcement branch function, which was not part of this recent audit. My numbers include that, and that's approximately \$38 million to \$40 million, so bringing you to the neighbourhood of \$140 million, if I'm not mistaken. I just wanted to point out that there was a discrepancy in what the auditor has just pointed out, because his audit was concentrating on all but that branch, and that branch was the subject of an earlier audit. So the \$101.4 million I believe refers to the budget for which they examined, if I'm not mistaken.

Mr Hampton: Is that fair?

Mr Peters: That would be fair. We isolated the numbers.

Mr Hampton: I want, then, the numbers for fiscal year 2001-02 and then your estimates for 2002-03, if those are available.

The other question I'd like to ask you is, what was the revenue generated by the road safety program for 1999-2000, 2000-01 and fiscal year 2001-02, and do you have any estimates for 2002 and into 2003?

Mr Rafi: The revenue for 2000-01 would be \$194 million, as defined by this aspect of the audit. There would be only a very small amount of money that might be captured through our carrier and truck enforcement revenue that may not have been included in the findings of this audit. Again, I'll get you the remaining revenue figures. I'm not sure if we can provide the cost requirements for 2002-03, as those budgets haven't been approved yet, so I don't know what approvals we'll get. But we'll have that breakdown shortly, hopefully, for the member.

Mr Peters: The only number we have is 2000-01, where we reported \$894 million in revenues.

Mr Hampton: The question I want to ask is, how does the outsourcing of driver exams impact on revenue generated and how does the outsourcing of other aspects of your programs affect revenue generated? Do you know that?

Mr Rafi: The impact on revenue generated by those programs would be the loss of revenue to the province from those programs, which must be considered in the context of the cost savings associated with those programs and also the customer service improvements, which are perhaps more qualitative and not necessarily dollar-focused but are of equal import. We have to look at the net effect, and some of that can only be determined once we look at what bid quality and bid prices we get. We've not concluded that process for the driver exam alternative service delivery, for the outsourcing alternative service delivery in what we call our licensing services, our back office, as it were. Again, we have not gone out with the request for proposals but we are

looking at the cost savings associated with not providing those services directly put up against the costs for purchasing those services in the marketplace.

Mr Hampton: The reason I ask this is because, for a program that costs you—and I'm just going to compare apples to apples here. The Provincial Auditor tells us that for fiscal year 2000-01, the expenditure was \$101 million. You've also agreed that you don't get a lot of revenue from the carrier safety aspect of it. So if the lion's share of the Ministry of Transportation road user safety program costs you \$101 million and you derive \$894 million in revenue, then outsourcing is going to have to be really quite something to reduce your costs without reducing your revenues, wouldn't you agree?

Mr Rafi: No, actually, respectfully, I would not. The ministry receives its revenue in a multitude of products and services, numbering well over 60, I believe. The majority of our revenue comes from what we call validation tags or validation stickers which are required on an annual basis by drivers in Ontario or may be purchased two years at a time. That product is not subject to alternative service delivery. Therefore, the majority of the revenue—I do understand that if you compare revenue to costs of the ministry, \$894 million, maybe \$900 million to approximately \$140 million, it might appear that we would be outsourcing that revenue flow, but rather, we are outsourcing a smaller component of that, should there be a take-up in the marketplace.

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Mr Hampton: Let me get this straight: the specific question I want information on is, how does outsourcing of driver exams impact on revenue generated? In your business case you must have some analysis of that.

Mr Rafi: Yes.

Mr Hampton: What is it?

Mr Rafi: The revenue to fiscal year-end, March 31, 2001, is approximately \$63 million. That is revenue with our additional temporary staff of some 284 at the time of the audit, approximately 301 staff now. That was a need to undertake additional hiring to meet with what were again increasingly high wait times for staff. Our normal number of staff is 450. We've pulled in revenue far in excess of previous years. Of the \$894 million in revenue, there's some \$63 million from the driver examination function.

Mr Hampton: So \$63 million comes from the driver examination function, and the rest comes from?

Mr Rafi: The majority, maybe 70% of our revenue, comes from validation stickers. Other products would be the used vehicle information packages, commercial registrations and commercial fees, other fees that would be collected, and the drivers' licences themselves, which would be part of the initial registration for a driver.

Mr Hampton: So in your business case, \$63 million, more or less, comes from driver exam revenues. Have you done a business case analysis of what the cost will be of the outsourcing, both in terms of the actual cost, let's say, of the contract and in terms of the cost when you factor in loss of revenue?

Mr Rafi: Yes. I would also state, if I might, that the purpose of our alternative service delivery in this specific area was and remains to improve customer service, to provide a more flexible delivery of that service, to maintain our road use safety integrity and to maximize the return to the province, and then we structured a 10-year licence agreement that we are pursuing in the marketplace. So our estimated expenses are approximately \$39 million to \$40 million. Those are on an annualized basis, so they are recurring expenses. The purpose is not specifically and not necessarily to have a dollar-for-dollar exchange, but we will also get value from the business. We feel there is room for harvesting improvements that can be taken, and we will get value for those improvements in a bid price that we are anticipating to be received shortly.

I also have the budget data, if you wanted the costs. We are working on getting you the year-over-year revenue figures.

Mr Hampton: I just want to be clear on the cost of the outsourcing: you will have to pay someone \$39 million to provide the outsourced service. Is that right?

Mr Rafi: I would say that we are looking for a firm or a consortium to deliver the service on a 10-year licence. They will pay us, in net present value terms, an amount of money for that licence and they will also look at the opportunities they have within that licence, the 10-year period, to receive additional funds, to make additional money. So the government will get not only what it pays on a 10-year basis in year one but the additional, if I may call it, premium for that business on top of that cost per year. So we are forgoing \$39 million in our expenses to have someone else deliver the business on our behalf.

Mr Hampton: So you're forgoing \$39 million; you'll give up \$39 million on the expense side. What happens to the \$63 million in revenue?

Mr Rafi: Yes, in fact we're also forgoing that revenue, but we're getting a lump sum payment for 10 years' worth of revenue from a service provider that will deliver the service for us. The amount of that price bid as it's going to be remains to be seen because we have not concluded our exercise.

Mr Hampton: I just want to be really clear: your expenses decline by \$39 million, your revenues decline by \$63 million a year—that's an accurate assessment?

Mr Rafi: The short answer is yes, and I think we need to emphasize that this is something that is taking place in many other jurisdictions. We have customer service concerns in this business that have related to the government having to hire 300 additional staff, which is a very difficult number to sustain over time because of the costs associated with it, long wait times, customer concerns for those wait times. So the decision on this is a function of improved customer service and maximizing value for a business that at the time the government felt, and I believe feels currently, can be delivered by others.

Mr Hampton: I have another follow-up question. You mentioned a lump sum amount which would represent 10 years' worth of the contract. When will that lump

sum amount be paid in terms of what you've set out so far? What year would it be paid in?

Mr Rafi: If this deal is concluded in the ensuing months, which we hope it will be, then we anticipate receiving in the 2002-03 fiscal year the lump sum amount for a 10-year licence going forward. That lump sum amount would be not only for the costs we would anticipate for running the business and the revenue we would get, but a premium amount that a bidder might provide us for what they could harvest in other improvements and benefits, which is not a unique method of undertaking a 10-year licence agreement.

Mr Hampton: So when would that lump sum amount—let's assume it's collected in the 2002-03 fiscal year—be shown as revenue?

Mr Rafi: In the 2002-03 fiscal year.

Mr Hampton: But it would be shown for revenue for all 10 years or just for the one year?

Mr Rafi: I'm not an expert on the PSAAB versus accrual accounting basis. I'd have to ask our finance officials for that take, but I believe the term is that we would book the amount in the fiscal year that it was received. How it's shown for accounting purposes on a PSAAB basis, the experts are—

Mr Hampton: Since I think this is the bailiwick of the Provincial Auditor, could I ask the Provincial Auditor, based upon what you've seen—

The Vice-Chair: That's the end of the 15-minute block, but perhaps the auditor would comment?

Mr Hampton: Maybe you could tell me how it should be shown and, based upon what you've seen over the last six years, how it would likely be shown.

Mr Peters: I think the PSAAB ground rules are actually that revenue is accounted for in the period in which it was earned. So the revenue should be recorded in the period in which it was earned and expenditures in the period in which they were incurred.

Mr Hampton: Does that mean over 10 years, then?

Mr Peters: If this is a lump sum—

Mr Hampton: Representing 10 years' worth.

Mr Peters: Yes. We would have to look at the detailed transaction. But, for example, the ministry currently records—for those people who are paying multiple years' licensing, the licensing is recorded in the year to which it applies. For example, a two-year licence would be spread over the two fiscal years in which it has occurred. That is the accounting that takes place.

Mr Hampton: Can I ask one definitional question? What do you mean by "harvesting more money"? Let's say you've got a private operator out there. Does it mean they're sort of allowed to figure out ways of extracting more money from the public?

Mr Rafi: The fee amounts that will continue to be set by the government and by the minister won't change unless the government agrees to have them change. The efficiencies that the service provider would be able to gain was my reference to harvesting improvements that they will have to determine and they will have to value as something they can accrue to themselves as part of their

interest in bidding on this business. There are efficiency gains that we feel would be of some interest to a potential bidder. That's what I meant. But the bidders themselves cannot set rates and will not be able to set rates or fees.

Mr Hampton: This won't be like 407?

The Vice-Chair: Thank you, Mr Hampton. We have about 10 minutes till lunch. We can go till five after, with a 15-minute block here, and then break for lunch.

Mr Patten: We can break for lunch now and come back at 1:30.

The Vice-Chair: Do you want to break for lunch now? Is everybody ready to do that?

Mr Peters: Can I make a very brief comment?

The Vice-Chair: You can make a comment, yes.

Mr Peters: Just to follow up, Mr Hampton, why I have some difficulty in answering your question is this: in the public accounts, we are using the accrual basis of accounting, which is what we are describing; in other words, an allocation over 10 years. However, I'm not sure how the estimates would be prepared that come to a vote before you, because they are still being prepared on a cash basis.

Mr Hampton: I think I know how they would be prepared.

Mr Peters: OK.

Mr Hampton: They'd be shown as one lump sum in one year.

The Vice-Chair: We'll adjourn, then, for lunch until 1:30—

Clerk Pro Tem (Ms Anne Stokes): Recess.

The Vice-Chair: Recess, thank you. There's that technical term. I don't want to get ahead of myself. We'll recess until 1:30, at which time we'll begin with the Liberal caucus.

The committee recessed from 1151 to 1334.

The Vice-Chair: I believe we have a quorum, so we'll call the committee meeting to order and continue with the review of section 3.11 of the Annual Report of the Provincial Auditor, that being road user safety. Just before we begin with the official opposition, Mr Rafi has some clarification on this morning's discussion. Although it may be for Mr Hampton, certainly we'll be able to provide that to him, or it will be in the record anyway. Go ahead, sir.

Mr Rafi: Thank you, Chair. There are a couple of areas; one was on the medical cases or medical reports that the auditor's report identifies as 150,000, and Mr Peters asked for clarification on that. I'll address that first.

I should clarify that my reference to 92,000 or thereabouts is to complex cases. Of the 150,000 reports that are identified in the audit report, we consider the remainder to be reports that are filed with us. So we processed approximately 60,000, and then in addition to that we cleared our backlog, generating a number of complex cases processed, approximately 90,000 in the year 2001. The audit report identifies 150,000 reports. The additional number above my number and the 150,000—that difference—is the reports we receive

which, for example, we call less complex or straightforward reports. If you are a category A through C driver's licence driver, you are required every three years to file a medical fitness report. If that's sent to us, we file that into the individual's file, and that is considered one report. That's how those reports reconcile to 150,000. I'm sorry if that has caused some confusion and I thank you for that opportunity.

The second piece relates to the division's expenditures and revenue for the years 1999-2000 to 2001-02. Although the member did ask for 2002-03 figures, those are not approved, nor would the revenue figures be approved, because they are a function of any changes that might occur based on fee structure or volume. So the estimates for 1999-2000 were \$151.8 million. This is for the entire division, which would be in excess of what was audited in the report. For the 2000-01 fiscal year, the estimates were \$143.1 million. For 2001-02, the estimates for expenditures were \$142.7 million.

For revenue, again, in the year 1999-2000, we reported revenue of \$878.6 million. In the year 2000-01, as the auditor has identified, it was \$894 million. I believe that would have been a third quarter projected. It settled—in other words, we received the remainder of that fiscal year's revenue—at \$910.3 million. For this fiscal year, 2001-02, ending March 31, we have a projected revenue of \$892 million, and that's where that ends.

You will see a fluctuation in revenue. If I could, I'll give you some way of explanation of that fluctuation. That fluctuation typically is a cause of the fact that we have 15% of licensed drivers who choose to renew their validation sticker on a two-year basis versus on an annual basis. I think, as I mentioned, a majority of our revenues come from both passenger and commercial vehicle validations. So we see a bit of an ebb and flow, if I might call it that, with respect to revenue fluctuations year over year. There'll be one year that's up a bit and one year that's down a bit and so on.

Thank you for the opportunity.

The Vice-Chair: Mr Maves, was that OK? That was part of what you raised this morning, I think.

Mr Maves: Actually, I think Mr Hampton raised it.

The Vice-Chair: And he raised the other—OK. Then we will continue for another 15 minutes with the official opposition.

Mr Hoy: The auditor made mention in his report the outsourcing of the driver examination system, which was something we talked about before lunch, I believe. He made mention that the ministry paid consultants over \$1 million to prepare a business case for alternative service delivery, but we're informed by the consultant that although the business case had been started, at the ministry's request it was not completed. How did it come to be that the ministry got involved with a \$1-million payment for work that was never finished or even required to be finished?

Mr Rafi: As we mentioned earlier in this morning's session, the ministry received approval to hire a signifi-

cant number of staff to deal with the waiting times for driver examination services, in advance of examining what market opportunity might exist for this business to be delivered by other firms that exist in the marketplace. At the time of getting approval for those staff, we also received approval to examine the market opportunity and assess this business in that context, partly because there is not a competitor business per se. There are many service providers out there delivering these types of services, service-type businesses, but not specifically driver examination.

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We asked and were approved at that time to undertake a market test and market analysis for up to \$600,000. Within that \$1 million that was identified in the auditor's report, we would break that down into \$600,000 and then \$450,000. That first \$600,000 was for a very extensive analysis on the business itself, doing some modelling, but also examining benchmarks, other jurisdictions that might be providing this type of service—what can we learn from that, and would there be a market interest in this? When we determined that indeed there might be, we went through the alternative service delivery vendor of record and proceeded to engage the same firm to do the business case development in this area.

We were also going to then take that business case to Management Board of Cabinet for review, and the decision at the time was directed to us that this was not an outsourcing opportunity because we were looking at the broad spectrum of alternative service delivery, which one could look at as outsourcing on the one hand and perhaps on the other hand full and outright sale of an asset, and there are several spots on that spectrum as well. So at the time we were asked to go to the cabinet committee on privatization and SuperBuild. This committee, while it does look at financial analysis, doesn't just strictly look at a business case analysis, and we were required to provide the spectrum of policy analysis which said we were going to recommend a spot on that spectrum, and we recommended a 10-year licensure agreement.

In the course of doing that, we had substantially completed the business case, but we used that information, that financial modelling, the financial analysis and assessment, to put it into a cabinet submission, a policy submission, and provided, as the auditor's report indicates, financial analysis information as well as looking at the spectrum of opportunities to give our recommendations to the cabinet committee on privatization and SuperBuild.

To that end, we felt that we took advantage of the information that was garnered; that we put that into a policy submission that provided members of the cabinet committee full and complete information as we knew it at the time. Their response to us was for us to go out and test the marketplace through a two-stage competitive bid process which we are in the process of completing now. We did a request for qualification and expression of interest, as it's called, and then secured a series of

successful proponents, who now have the opportunity to conclude a request for proposal where they will put in a price bid and a business plan.

The two contracts that were let for these projects amounted to a little over \$1 million. I want to emphasize that we felt that we have a completed business case. A business case should always be updated when you are ready to conclude your recommendations, when demographic information or staffing information is complete at the time that you would take the decision forward for review by the cabinet committee on privatization and SuperBuild. So it was a change in approach which was very much in keeping with the mandate of one committee over Management Board of Cabinet, and we felt that we took advantage of the advice we received as well as the information we received. I'll stop it at that. Thank you.

Mr Hoy: I think that through certain bills before the Parliament, Bill 65 in particular, where outsourcing or privatization is the order of the day by the government, hiring consultants for \$1 million not to complete an action is not public monies well spent.

The auditor mentioned that nowhere in the portions of the submission we received was this limitation noted: that the information was taken from an unfinished business case.

What is the ministry doing now in terms of hiring consultants? Is this hiring a tendering in all cases? Will you be tendering for consultants or do you pick from a pool?

Mr Rafi: The vendor-of-record approach that's been established by Management Board Secretariat applies in several areas, as all members will probably know, not the least of which is alternative service delivery. While at the time we did select from that group of already vetted consultants, the process that the Management Board Secretariat goes through is to select through a competitive exercise these vendors. It places them their list, allows ministries to access that list, puts their per diems on there that have been agreed to and discussed and negotiated. We at the time followed that approach, but I think as has been pointed out by the auditor, their view was that in spite of what we thought were the methods to follow at the time, we should be looking to undertake firms off the vendor-of-record list in a competitive manner. We are committed to doing so, and we are committed to improving the way that we address our acquisition of consulting resources, to your question, and to the Chair.

What we are moving to do, for example, is we have set up a central process for the acquisition and co-ordination of consulting resources. This process begins with requiring—whether an individual is going to choose from the vendor-of-record list, we must still select three names off that vendor-of-record list and require them to go through a competitive process in which they would submit their qualifications as well as their bid on the particular services. There are a series of mandatory documents. We have provided relevant staff with checklists that must be completed. One of those documents is a

consultant acquisition approval form must be completed and on the file. There must be an information note on the file for what the project is about. There must be letters to the consultants inviting them to respond to our interests. Through the competitive process, once a— we may also post the opportunity, I should add, on the MERX system, the electronic system that's used by government, but specifically in vendor of record we will go to a minimum of three.

Then, when the consultant is chosen, there is a consultant work package that is also centrally kept where there would be a signed agreement on board. Signatures will be obtained, and the consultant will not start work until that signed agreement is in place. All the other material I mentioned will also be part of the file.

Two more items, if I might. Throughout the life of the project there will be ongoing reporting on the financial status and financial status updates of the consultant assignment. Then at the close-off of the assignment we will require that the file have a close-off letter but also an evaluation form, another feature identified by the auditor in his report, an evaluation form that's signed off by both the vendor and the ministry to complete the file, and that will be kept centrally. To date, we have trained 85 of our staff since establishing this process in the fall of 2001, and those staff are either primary approvers of consultant assignments, project management staff or administrative staff that would be handling some aspects of consulting acquisition in the division.

Mr Hoy: Thank you. Would this file—and you've gone through the steps of what would happen—be made public in a timely way? Are you going to have these consultants do their work and then make the tendering process, the competitive process, public after the fact, or will it be public up front to those who may want to avail themselves of the service?

Mr Guscott: We encourage as much competition of skilled and able consultants to help us out on projects as we can. There is a process that we've mentioned through the Management Board Secretariat where they establish vendors of record, and they do a very broad advertising for that vendor-of-record process. They use the MERX system and other means to encourage any qualified bidders to come into their process, so that usually brings in a good, large field of potential bidders.

When we use a subset of that process for the competition that we've talked about today, that we've instituted since the Provincial Auditor's report, we are working within that subset. When we go out and advertise it on the MERX system as well, if we have any reason to believe that the vendor of record doesn't contain enough people skilled in that particular area, then we do use a very broad public access. The MERX system is followed very carefully by people who wish to sell services to the government.

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Mr Hoy: This morning, Deputy, you mentioned in your opening remarks that quotations would be garnered from three sources. Does this apply to the discussion we're having now?

Mr Guscott: Yes, that's exactly the same piece. If I can clarify: as I mentioned this morning, and as Mr Rafi mentioned a moment ago, we don't take one company from the vendor-of-record list any more. We select three and have a secondary competition among those three. That gives us more competition into that, more accountability in that process.

Mr Hoy: Now, does what you've just described include the outsourcing of the driver's licence testing offices? Would you require at least three applicants for the purposes of outsourcing of the driver's licence?

Mr Rafi: Is this about the driver examination or the private issuing offices that the question is pertaining to?

Mr Hoy: It is the government's intention to privatize the drivers' testing. Would you require that at least three firms or consortiums, as you described it before lunch, would apply before you're granted that?

Mr Rafi: In fact, what we've done in that approach is a two-stage competitive process.

The first stage was asking for an expression of interest by the broader community out there. That was posted on the MERX system. Once we went through that exercise and a blind process of review was undertaken by a series of evaluation teams, we then qualified a group of bidders. I don't know the number of bidders because it's blind to me. So the answer is yes, absolutely. In fact, I think we exceeded those requirements in the privatization of the alternative service delivery of driver examination business.

Then the qualified bidders have the opportunity to submit price bids on the request for proposal, which are right now in the process of being fulfilled and have not yet concluded.

Mr Hoy: Has the ministry achieved, to this date, the six-week waiting period that you desired for persons who seek a licence? Have you achieved the six-week waiting period, the turnaround time, that the minister has stated he wants? Have you done that currently?

Mr Rafi: We have a provincial average of a six-week waiting period across the province. The answer is yes. However, there may be some driver exam centres that will experience fluctuations or will just have an abnormally high demand area and they may not be down to six weeks at this stage. But the driver examination alternative service delivery will require that the successful proponent will have a six-week wait time at every driver exam centre.

The Vice-Chair: Thank you, Mr Hoy. We now will move on to the third party and that will get us right back into our equal rotation.

Mr Hampton: I want to return to some of the questions I asked earlier this morning. I'm trying to get a sense of what you mean when you say that when driver examination is privatized, whoever is the private sector company that gets the contract, there will be—and I'm trying to use your words—significant opportunities for them to harvest other revenues. It seems to me that harvesting other revenues means other fees. So is it within the conceptual framework of this that a private

company that gets the contract for driver testing, or may already have gotten the contract, for all I know, would be able to assess other fees or additional fees or fees on top of?

Mr Rafi: Mr Chair, just before the break we were exploring some of this area, and I would reiterate that the fee structure will not change unless the minister and/or the government are willing and interested in changing that fee structure; it will not be the purview of the successful proponent. The "harvesting of opportunity" reference is to additional cost savings, cost efficiencies that a proponent might be able to bring. They will have to determine, while going through in some detail the data room that is available to them, as this transaction has not concluded and a successful proponent has not been selected yet—they will have to determine and reflect that in their price bid as to where they see those opportunities lying and whether or not they feel that there is value for those opportunities.

The original intent of this exercise was to determine the market interest for this type of business. While there are service firms in Ontario that might be interested, one cannot be certain that there will be an interest when it comes time for bidding. We did what we thought was a prudent amount of work to get us to this stage, and we are testing the market to see if indeed there is interest in the marketplace for the business. But fees are the sole purview of the Minister of Transportation, increases in this area, if they are to be increased. The competitive process has not concluded as yet.

Mr Hampton: So I want to ask this specific question again. I think what I heard you say is that the minister would have the capacity to allow higher fees or additional fees, would have the capacity to allow the private contractor to assess additional fees or higher fees. Is that correct?

Mr Rafi: The fees cannot change without the minister's approval. It's not that the minister would increase fees—I want to be careful with my language—but the fees cannot increase unless the minister authorizes it.

Mr Hampton: Could you give me a concrete example of how a private company could harvest additional revenues? One way would be to go to the minister and say, "We want a higher fee" or "We want your approval to charge additional fees." Can you give me another example of how a private operator could harvest additional revenue?

Mr Rafi: Some examples of how a successful proponent would be able to secure additional cost efficiencies would be to provide differing hours of service to take advantage of the fact that not everybody works from 9 to 5, so extend service hours, naturally making sure that we aren't running into rush hour time or that we're not testing at inappropriate times. Perhaps provide weekend service. Perhaps also provide car rentals for individuals who do not have a vehicle readily available. Those are, I think, three examples of where a successful proponent would be able to garner cost efficiencies or additional revenue opportunities that would be reflected in where they see the value for this business to be.

Mr Hampton: So for someone who wants to have a driver's test and doesn't have a vehicle of their own, one of the allied services that might be provided by this private company would be that you can rent a car at the same time.

Mr Rafi: Yes, and only those services that would be approved by us would be subject to that type of allied service provision, and not any service that a proponent would wish to provide. I think that's an important emphasis that I might add, Chair.

Mr Hampton: I want to just go back to the raw numbers again. What you indicated this morning was that, on average, the driver examination function brings in \$63 million in revenue. The associated expenditures, costs, I gather are \$39 million, which leaves roughly a net revenue of \$25 million a year. Is that a fair assessment?

1400

Mr Rafi: Yes, considering that this year is the highest revenue year we've had and considering that the costs, as you've identified them, are net of the revenue.

Mr Hampton: We're actually dealing I think with year 2000-01 figures. I think that's what we agreed on. So you're saying the revenue will actually be higher this year?

Mr Rafi: Revenue was higher in 2000-01 than it was in the years previous because we had brought on many more staff than we had, which allowed us to pull forward revenue. It is revenue that is not being realized if someone is waiting more than six weeks to get service. The moment we can reduce that to a below-six-week level, we're realizing revenue that would not be realized until subsequent years. That's why the 2000-01 fiscal year was a very strong revenue year for this business line. These are temporary staff hires that we had undertaken.

Mr Hampton: I understand. But in general, then, the process of privatizing this would mean that the taxpayers of Ontario, if we project 10 years ahead and use the figures that we've received, would be forgoing about \$25 million of revenue a year, net revenue; revenue net over associated expenditures and costs.

Mr Rafi: With the price bid approach that we have put in place and that we are hoping to get submissions on, we will not be entertaining those bids if we are not making as much money as we are making now or more. The opportunities for cost reductions and cost efficiencies are realized in the bottom line of a business. We are anticipating and hoping that that will be reflected in the price bids that we get for the business, because as a 10-year opportunity they will have the opportunity to undertake a return on their investment. It's our hope that through our competitive process the government will realize those benefits. While the math that the member is talking about is the case, we do not intend to undertake this opportunity without ensuring that we're getting at least what we're getting now.

In addition to that I would add, if I might, that we also will get improved service delivery. One of the main objectives of this initiative was to improve the service

delivery, with which we were hearing that MPPs throughout Ontario were having difficulty, through their constituents, through our own customers. In order to sustain service improvements over the long term, this will be one of the methods to do so and to do so effectively.

Mr Hampton: If I remember reading the press releases about privatizing water testing, that was going to result in improved service delivery too. What assurances are there, what consumer protections? This is all under the discretion of the minister. What legislated consumer protections are there and what legislated service delivery do you have?

Mr Rafi: There are several requirements that we will have in our contract and in our delegation agreement with the service provider. There are several tools that are at our disposal that we will employ and will require of a service provider.

To start with, there will be performance standards set by the ministry and by the province. Those performance standards will not change unless authorized. We have escalation remedies that if service standards are not met, we will be meeting and ensuring that they are met through various remedies and tools at our disposal.

We will use such mechanisms as scheduled audits, unscheduled audits, something called mystery shopper investigations where individuals from the ministry will conduct themselves as customers. We will also undertake customer satisfaction surveys and require that those surveys be verified by having the proponent do the same. There will be a cure plan, as it's called, for any sub-standard performance that is found by the proponents. They will have to demonstrate in writing back to the ministry if they do not perform—for example, if they do not keep customer service levels at the six-week requirement, they will have to demonstrate how they're going to do that and what their methods of rectifying this will be.

We will have a small group of individuals who will also act as an oversight body with the proponent, and we will have an issues management and complaints resolution process and monitor them through the changes in any legislative or regulatory means that the government has at its disposal. The contract itself will also be required to be adhered to, and an oversight body will be structured to undertake the type of monitoring that is necessary.

Mr Hampton: As I do the simple math, it looks like we're talking, over a 10-year period, at least \$250 million in revenue that would ordinarily come to the taxpayers of the province. I think what I heard you say is that the contract would not be given unless you can capture at least \$250 million. Is that a fair assessment?

Mr Rafi: The intent of this initiative is to maximize customer service improvements, to ensure that provincial wait times are at an acceptable level to the clients of the business and to Ontarians, and to ensure that we maximize value to the province. We will have to determine what type of price bid interest there is in the marketplace

before and unless we are able to take this forward. It will go through a decision-making process within the government, and decisions against those objectives will be assessed. It would be our hope, through this competitive bidding process, that we can maximize all the objectives associated with this initiative.

Mr Hampton: I'll repeat my question again, and maybe I'll put it in the negative so it will be easier for you to answer. Are you saying that a bid might be accepted even though the province will not realize the \$250 million of net revenue that otherwise, just from the rough estimates, would accrue to the taxpayers? In other words, are you saying that the province would accept a bid, say, for \$215 million or \$220 million even though, looking at it from a business-case analysis, that would suggest that the province is actually going to lose revenue? The province will actually have less money accruing to it when all of the associated expenditures etc are factored into the equation.

Mr Rafi: There are two equally important objectives in this deal structure. One objective is to ensure that customer service is improved. I think we've heard from all accounts that it needs to be. We've heard from our customers, we've heard from MPPs and we've heard from the Provincial Auditor.

The other objective is to ensure that we are no worse off and we try to maximize value. We went through a competitive process, and are going through a competitive process, to create a healthy marketplace tension and a bid interest that will generate a situation where we are no worse off now than we were before we undertook this initiative.

Mr Hampton: I'll repeat my question. Are you saying that the province, from your perspective as the person who appears to be in charge of this, would actually accept a bid which would result in the province realizing less net revenue from these activities? In other words, the province would be in worse financial shape, say seven years, eight years or 10 years from now, than it would be otherwise had it kept this function within the public service.

Mr Rafi: I personally will not be making the decision. I will make a recommendation through my deputy minister, and through to the minister if he chooses to accept that, and we will take that to a cabinet committee, just to clarify my role to the Chair. As I mentioned, through this competitive process, through this bid process, we hope to be no worse off in a financial term, but also to maximize the other objectives that we have for this initiative. I feel that addresses the situation of, "Will the province accept?" I can't speak for what the province may or may not accept, but our objectives going forward are to ensure, again, that we are no worse off and we maximize other objectives that are of importance to this initiative.

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Mr Hampton: For the province to break even, I think we'd all agree, just on the rough mathematics and the projections, the province would have to realize \$250

million on this contract. Whoever the private sector proponent is, I'm sure they would want to realize a profit of at least 15%, which means the private sector proponent probably would be willing to offer only about \$216 million, something like that. That leaves you some room for profit. Just calculating in, say, a 15% return for the private operator means that the province is already out about, let's say, \$20 million or \$30 million.

The Vice-Chair: You may want to pursue that in the next round.

Mr Hampton: Oh, I think I will.

The Vice-Chair: We now move to the government caucus.

Mr Raminder Gill (Bramalea-Gore-Malton-Springdale): The biggest driver testing centre in my riding is the John Rhodes, and I know we had the minister over there about a year and a half ago when the backlog was tremendous. In fact, we were getting a lot of complaints even from industry, which was bringing in workers from overseas who were having difficulty getting their licences.

I just need to know: how are we doing in terms of improving the service? I know I don't hear as much from my constituents. Perhaps the problem has gone away. Please update me on that.

Mr Rafi: We undertook to hire additional contract staff because, as the member has pointed out, not just at the John Rhodes Centre but at many of our very busy centres in high urban areas across this province we were experiencing lengthy wait times for numerous reasons.

Beginning in mid-1999, we began a process of adding a road test booking centre, we call it. It's a call centre that allows callers to access the booking opportunities by actual centre as well as what is the next available time for an individual road test. So, for example, if a young person is going to university in Ottawa, lives here in the Toronto area but wants to take their test in Ottawa, they can find out if there is an opportunity for a test in Ottawa and when, and vice versa of course.

In addition to improving that system, we've hired additional staff. We added some 300 additional staff when all was said and done. We added three more driver exam centres to meet the existing and what might be future demand. We are pleased to say that we now have an overall provincial average wait time of six weeks or better. Again, as mentioned to a previous question, there may be certain areas in the province where the wait times are much lower than that. Again it depends on which type of test one wants to take. It may mean that in some cases we're still experiencing wait times that are somewhat higher, but our provincial average still remains at or about six weeks. Specifically in the John Rhodes Centre, we've seen a dramatic reduction in the wait times by some 98% in the G2 and some 70% in the G1, which is the first test that is taken. The G2 is the second exit test that is taken by individuals who are trying to acquire their graduated licensing G-level licence.

Mr Gill: I certainly want to congratulate the ministry, because it has made our life much easier since the

improvements. I was looking at the chart this morning that you showed about the number of fatalities. Subsequently, I was reading an article in the *Globe and Mail* in, I believe, the *Wheels* section that said the deaths by homicide are higher than the deaths by motor accidents. I think that trend has improved quite a lot. Is there any reasoning behind that? Have we done some programs, or what's the—

Mr Rafi: I think the ministry is very pleased with the results that we see on this chart. I believe we've had the lowest level of fatalities due to motor vehicle crashes since 1950. However, it would be inappropriate for the ministry to suggest that it takes credit for all those changes. Numerous initiatives have been undertaken over many years by governments that have sensitized the public to road safety. One example, and another real success story in Ontario, is that the use of seat belts in Ontario, which is about 92% to 93% usage, is the highest in Canada. Therefore that makes it the highest in North America, because we far exceed the US in seat belt usage in Canada.

There's a clear set of data from the federal government that indicates that seat belt use is a direct determinant in saving people's lives when it comes to motor vehicle collisions. The police community has done a stellar job in sensitizing the public, whether it be blitzes or public education campaigns. We have worked with over 100 community groups throughout the province to sensitize them to all aspects. We have worked with other partners, such as insurance bureaus, safety leagues, driving school associations and the like.

We also feel that the graduated licensing system itself, while recognizing we have only preliminary data, has reduced the number of collisions pre the introduction of the system in 1993 to one year after introduction of the system. We saw an immediate decline in collisions and injuries; collisions, I believe, at a 31% reduction and injuries at a 24% reduction. When we put all of these factors together—and I'm sure I've forgotten some—they might speak to the combined effect. I would be remiss if I didn't also talk about the reduction of drinking-driving incidences and the 25% reduction we've seen over 10 years of fatalities due to drinking-driving.

There is still more work to be done, but all those items combined make for what has been a good record in Ontario.

Mr Guscott: Mr Chairman, if I could just add to Mr Rafi's answer, one of the things you'll often hear is, "Well, of course it's safer, because cars are safer these days. They have ABS brakes, they have air bags etc." That's why we thought it was important to include as well the way our jurisdiction shapes up with the rest of the world, which also has safer cars and vehicles. We feel that chart of the international ranking of other countries vis-à-vis Ontario shows that it isn't just technology, that technology is improving all over the world. Even with that, our safety record is getting better. That's a credit to the people of Ontario, who are driving better.

Mr Gill: In terms of the minister having the power to increase the fees for driver training or whatever, I

suppose that authority exists with him even now, but I'm sure, in all fairness, he will need the cabinet's approval whenever he wants to do that. Do you want to elaborate on that? That's the norm anyway.

Mr Guscott: There is nothing in the plan that we're proposing for the privatization of our driver exam function that takes away from or gives any greater powers in setting fees to the government than it has now. All the fee setting will be at the government's requirement to be approved, whether that's the finance minister or the Minister of Transportation.

Mr Gill: I believe if there's any net loss in revenue and there's an increase in service, sometimes you have to pay money to get better service.

Mr Guscott: The discussion we've had today has sort of been like a back-of-the-envelope discussion of some of these initiatives. The business plan that's required by the government in assessing bidders, or by the bidders themselves as they determine the price they can pay, takes into account an awful lot more factors than we've talked about today. It takes into account long-term trends in the business, in the costs of the business and in the opportunities.

For example, we're not talking about just selling a business that we do now. As we've said a couple of times, we're going to require that the new purchaser of this service provide six-week coverage for a driver exam anywhere in the province. We're at a six-week average today, but as Mr Rafi has said, we're way above six weeks in some areas and below in others. A condition will be that it's six weeks everywhere. That's a level of service that we're not able to provide today, as much as we'd like, and they have to take into account that cost factor as well.

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Mr Gill: Sure. I'm done.

Mrs Julia Munro (York North): We'll pass.

The Vice-Chair: To a member of the official opposition.

Mr Hoy: Thank you, Chair.

It has come from a question of mine, and your answer was that you were approaching a six-week average across the province. I recognize that there may be areas where that might not be achievable this week but might be achievable next week. In answer to Mr Hampton's question, you say you want, through privatization, to have the same revenue. So we've got the six-week situation remedied; the government wants to achieve the same revenue. That leaves customer service, which has been mentioned a number of times here. Before lunch, Assistant Deputy, you mentioned flexibility, and just a few moments ago you mentioned different hours of service as an example of how to achieve more friendly customer service. Do you not at this date have the ability with our public service here in Ontario to have different hours of service?

Mr Rafi: We have increased our hours of service at the margins, and we've done that obviously through co-operation with our existing staff. It is far more chal-

lenging to provide such services as weekend service and also to provide part-time services, because the number of individuals an organization needs on board in order to have the flexibility to put on part-time service requirements by individuals or the service itself and full-time is a level of staffing that may be difficult to sustain over time. In addition, in order to even get to a provincial average of six weeks it was a massive investment of temporary staff; again, not something that's going to be easily sustained over time.

The other thing I might mention is that there will be other costs associated with the initiative that aren't reflected in our costs because of what we would call economies of scale and scope that we undertake already. So it's very challenging to provide services in a manner that is outside the norm.

Mr Hoy: But you have the ability to have different hours of service with our public service here in Ontario now.

Mr Rafi: Just to the level of increasing them in certain locations only by one or two hours at the end of a weekday. It's been challenging for us to put on weekend services. It's caused concern among ourselves and concern among the staff in terms of the workload that's been put on them.

Mr Hoy: But the Ontario government could hire more staff to do that.

Mr Rafi: The government has hired more staff to do that. I think the issue becomes, what is a level of staff that one has to take on additionally to get six weeks in every location, and is that a level that can be sustained over time? It's perhaps not a level that can be sustained over time in terms of the costs.

Mr Hoy: I look at the six-week issue that we talked about and your desire to have the same revenue. You have flexibility within the public service now, so I'm failing to find out exactly why you want to move in this direction.

The 10-year contract to a firm or consortium: have you looked into and analyzed the need to have a 10-year turnaround? Have you analyzed whether, when you go into the next round of competitive process, there would be anyone available to deliver this examination service at the end of 10 years, other than the one that's providing it currently?

Mr Rafi: What we've examined is that the successful proponent will be required to signal their interest in maintaining the business with a substantial lead time. So with two years remaining in their 10-year licence, they will need to signal to us whether they will be interested in continuing on, and that can be done through an extension period, or whether they're going to be considering exiting the business, and then we'll prepare for another competitive round to solicit a successful proponent at that point. If they are interested in maintaining the business, then we will look at our experience with them and determine whether that's something the government should be interested in and whether we want some remedial action to be taken before, and not until, we are going to engage them for another extension or another contract.

Mr Hoy: You're going to have a very rigorous program here to provide for the first service provider for a period of 10 years. I would hope that's going to be a very rigorous process and an open one and a public one. Do you believe that at the end of 10 years there would be anyone in Ontario who could take over this very extensive examination process for drivers in Ontario, assuming perhaps that the winning bid, the winning firm or consortium, has decided that they don't want to be involved here? Would there be anyone in Ontario with the expertise to take over after 10 years? Have you analyzed that? Do you believe there would be someone who could step in on a two-year turnaround and be able to take over what you're preparing to tender out?

Mr Rafi: I would say that when we have our bids in, we'll have a sense of the number of firms and/or consortia that are interested in bidding on the business in the first instance, and that might be an indicator. I would hope that lets us know that there would be interest in this business going forward. If we do not receive that type of interest, then I think we've got the answer earlier on. But originally, this was to determine the interest in the marketplace, and that is the process we're going through now. What the circumstances will be in 10 years in Ontario I couldn't speculate.

Mr Hoy: I think the public would want to know and would want assurances that the firm or consortium that takes this over for a period of 10 years doesn't become a monopoly, whereby there's no one left in Ontario that could deliver the service because they've been shut out for 10 years. You're not allowing for a process that turns around very often—once a decade.

Mr Guscott: It's a reasonable question. I think we will soon know the answer to that question, as best we can now for 10 years hence. As Mr Rafi has said, if we have multiple qualified bidders now for a business that none of them are providing, we'll have a pretty good idea, depending on the nature of those other bidders, whether we're likely to have those same types of bidders around 10 years from now. It's really not that much more difficult than the situation we're in today.

Mr Hoy: It's been stated here this afternoon that the government wants to maintain the revenue stream that they have. One would assume that the consortium also needs to make money at this. I have a concern, and the public has made it known to me, about rural and remote areas. I don't doubt that there would be a consortium around that would like to be the biggest driver examination centre in the GTA or Toronto, but what protection will be provided so that costs don't escalate in those rural and remote areas, and the service will be provided in the timely way that you desire without having persons travel great distances to have their exam? Let's particularly cite the very young and those who are 80 years of age.

Mr Rafi: The first requirement will be that the proponents maintain the same number and approximate locations of driver exam centres that there are in the province now. There is an allowance to move, for leasehold arrangements, within a five- or 10-kilometre radius,

or if leases are coming due, because we don't own those properties in each and every circumstance. But the expectation is that the service points must continue to exist within the approximate locations that they are now. Along with service wait times that are consistent in each and every location or better than six weeks, those are some of the checks and balances that would take place in terms of access and availability of service.

1430

Mr Hoy: The government wants to maintain the same revenue and the consortium will want to make some monies, perhaps undetermined, but they'll want to make some monies. How can you guarantee that in rural and remote areas the cost might not go up, citing those very same points that you've made? You want to maintain a government stream of monies. The consortium wants to make monies. The minister is going to be under great pressure, I would suggest, to increase those fees in rural and remote areas. It would seem reasonable to me that where you have walk-in traffic as large as you could have in this area that we sit in today, that consortium would do very well. What protections are there for rural and remote areas, other than the fact that you say the existing office has to be within five or 10 kilometres? What is going to protect them in year five of this agreement?

Mr Rafi: There's no opportunity for differential fee structures in the agreement. It must be adhered to if a firm is going to bid for this business. So you have to sign the agreement before you even entertain putting a price bid in.

I think the second point is that that's why we're looking for a single proponent for across the province, because there are differential cost structures living in various regions of the province when you factor in demand and population for a client base. So the notion is that the bidder will be delivering services across the province, will take its revenue based on set fees across the province, not differential fees, and must maintain services and service levels the same in one part of the province as it does in the most urban, most populous parts of the province.

Mr Hoy: You mentioned that these firms or consortiums, along with delivering the driver examination, will also be able to provide additional services. Do you have any list of services that can be made available or a list of services that cannot be made available through these driver examination offices?

Mr Rafi: In our request-for-qualification/expression-of-interest process, we asked any interested bidders to identify the types of ideas they thought they would want to see for additional service provision that would be related to this business. We also put in prohibitions as to the types of products and services that could not be provided in our driver exam centres. A few of the ones I have mentioned, which are perhaps extended hours, though not necessarily providing differential costs for extended hours, but again pulling revenue forward, speak to the proponent's return on its investment and the timeline for its return on its investment, and perhaps car

rental service provision that could be seen to be an additional revenue stream for the proponent.

Mr Hoy: Let's say I'm a young man who wants to get my first driver's licence and I go for my driver examination. Let's say perhaps I own a car and I want to get my licence and I go to this new firm or consortium and they say, "We have rental cars here. We prefer that you rent our car rather than use your own." Have you got something that will protect the public? Their first goal is to get their driver's licence. They may not want to buy any product at all that is available. We don't even know what they might be, but we hear car rental, for example. Is there anything that protects a person who says, "I do not want to use your rental car. I just want to take my exam in whatever car I choose"? Have you got some protection for that client so that they won't be coerced into using services and products provided by the firm or consortium?

Mr Rafi: Yes, we will do a number of things. One, obviously, beyond the fact that the coercion of additional services is an expressed prohibition and will be an expressed prohibition, as I mentioned earlier, we will also be undertaking our own mystery shopping, our own spot auditing, our own monitoring, our own complaints resolution process. We will require the proponent to also advise us of complaints they've received and how they've resolved them. Those complaints will also be available to be received throughout the various methods people have of communicating with their government now—through their local members, through letters to the minister, through the e-mail process—and perhaps secure a complaint resolution process that would be imperceptible, or not the scrutiny of the proponent, but rather the scrutiny of the ministry itself. These oversight functions, along with others, will be employed to insure not only the type of example the member has identified but other examples as well that might come up when people might feel they've been egregiously examined and dealt with in a manner that was not to their satisfaction.

Mr Hampton: I wonder if you can help me out and make some distinctions. When you cut away all of the various names and designations you might attach to something—in the spring of 1999, I believe you could say that the government sold a stream of future revenues associated with Highway 407 for a lump-sum payment. Would that be a fair description? Future revenues would have come from Highway 407, from the tolls. The government decided to sell that stream of future revenues for a lump-sum payment in 1999.

Mr Guscott: I feel like you're trying to put words in our mouths.

Mr Hampton: Is that a fair description?

Mr Guscott: I think it would be fair to say that the government got competitive bids for selling the business of operating Highway 407 for a number of years.

Mr Hampton: And the rights to the future stream of revenue.

Mr Guscott: I think what you haven't distinguished in your comment is the cost associated with it, the cost

associated with extending the highway etc. The government did not only forgo the revenue but the cost associated with that as well. So I think it's fair to say it sold the business associated with operating that highway.

Mr Hampton: As I understand it, what you're proposing now, in the spring of 2002, is to sell a 10-year stream of future revenues or to sell a business for 10 years for a lump-sum payment in fiscal year 2002-03, is that right?

Mr Guscott: The timing etc is all contingent on the fact that we haven't even got the bids for it yet, so I think that's quite speculative as to just when that might happen. Yes, it might happen and it might be a year or two later.

Mr Hampton: You've made a lot of comments about consumer protection and protection of drivers, etc. One of the frequent complaints we've seen, and we get them from all over the province, is that people are being assessed fees for the utilization of the 407 when they're able to establish an affidavit, evidence or work records that in the times in question they could not possibly have been anywhere near Highway 407 because they were elsewhere in the province. We get those complaints repeatedly and, as MPPs, we have a very difficult time having those resolved. In fact, in many cases, the 407 corporation just sloughs them off and says, "We're due a certain amount of revenue and you have to pay." Where's the consumer protection in that?

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Mr Guscott: The driver exam privatization model that we're looking at has much more intervention of the government in terms of fees, consumer protection etc than any other similar model. In fact, the dispute resolution, as Mr Rafi talked about in answer to Mr Hoy's question a few minutes ago, is much more extensive. As some of the members alluded to earlier today, there are a lot of complaints now about the driver exam function, perhaps not surprisingly when 60% of the people who go to take it pass and 40% get some bad news. So it's not surprising that we would have some complaints about it.

We expect this is the kind of business where we're going to have to have the best of customer service in order for this to be a success as an outsource activity, because of the fact that not everybody who walks in is going to get what they want. In fact, about 40% of them won't.

Mr Hampton: Just so I'm very clear on this, the minister will retain control over what can be charged for the driver examination fee, is that correct?

Mr Guscott: The minister will have control over what can be charged for the examination fee and he will have a veto over any other services that are provided by the provider as well. So if there are conflicting services of some nature—I can't think of one off the top of my head—they wouldn't be allowed. But the fees that are for the government-type service are set by the ministry.

Mr Hampton: I believe you indicated to a couple of questions earlier that you had already set out parameters

on what would be allowed and what would not be allowed. Is that a fair assessment?

Mr Guscott: In order to allow the bidders to develop their business case, it was necessary to define the types of businesses that were involved. As well, we got input from potential bidders about the things they would like to do. So we have some idea of the services that might be involved in this particular activity.

Mr Hampton: I want to get a clear picture of what would not be permitted and what would be permitted. I understand where some of these services have been privatized in other jurisdictions, for example, that where a six-week time limit has been set, if someone were willing to pay more, that is, an additional fee—not a fee for the examination but to have it scheduled earlier—that would be permitted.

Mr Rafi: That will definitely not be permitted here. In fact, there will not be differential fees for queue-jumping; there will not be differential fees for aspects of that whatsoever. Again, the fee structure will be set and will not deviate unless and until approved.

Mr Hampton: So someone would not be able to pay an additional amount in order to get an earlier driver's examination.

Mr Rafi: That's correct, nor are we contemplating that. We are putting checks and balances in place to watch for that and to audit on that basis as well, and would definitely act on complaints we received in that regard swiftly.

Mr Hampton: I understand as well, where this kind of privatization has been done in other jurisdictions, that if someone wanted, let's say, a Saturday or Sunday appointment, they could pay an additional fee and by payment of that additional fee would be entitled to an appointment at that time. I guess you'd call it a convenience fee.

Mr Rafi: It's our assessment that, as has been mentioned, a firm is obviously looking to generate profits and that's what makes it successful. But also, firms look at their various returns: their returns on equity, their returns on investment and so on. I'm certainly not an expert there, but the ability to draw revenue forward, in other words the ability to continue to provide services well below six weeks in terms of wait times, is the ability to pull revenue forward that is unrealized revenue. It's revenue waiting to be brought forward. But if you can't make the times available, then you can't realize the revenue. We see that as a benefit.

However, what will not be available to them will be to say, "Oh, OK, we'll allow the firm to undertake an evening test or a weekend test," and then provide fees associated accordingly with that. That is not the case. Again, the fee will be a standard fee, whether the test is provided on a Saturday or a Sunday or a Monday.

Again, the benefit is derived in other aspects of the proponent's opportunities, and that's one to pull revenue forward, but they will have to determine whether they can withstand the additional costs associated with having a cadre of staff available, because the same benefits must

accrue across the province. They may have to put on weekend services in order to meet their wait times in a particularly busy or populous area or areas where there are driver exam centres with high demand.

Mr Hampton: I think this may have been touched on earlier, but I just want to be absolutely sure. Again, where privatizations of this sort have occurred in some other jurisdictions, people found that the service might not be offered in a particular geographic location, just as a matter of routine delivery of service. People found that they would have to go further afield to receive the service. Can you ensure or can you guarantee us here that wherever driver examinations are available in Ontario today, they will continue to be available on the same basis?

Mr Rafi: For the RFP that's currently out for examination and bid, as part of the process with these types of transactions, we have set up what's called a data room, and that is a physical location with scores and scores of information that a bidder would need to understand the business so they can make an educated and appropriate bid with all the information that is necessary. In that data room are all the points of location, volumes and wait times that we currently have for those driver exam centres that currently exist, among many, many other pieces of information and analysis and data. So, one, the message has been sent in part of their examination.

Secondly, the message has been sent in the RFQ and RFP process, where it has been indicated that the expectation is for a six-week wait time at all driver exam locations. It has been indicated that the driver exam locations must remain in a proximate location to the existing locations, so that if the proponent doesn't wish to have the challenges of providing service in downtown Toronto or wherever the closest location is, or if the proponent doesn't wish to have the high volume of another location or the low volume of another location, those opportunities are not available to the proponent, and the proponent is making a bid based on that knowledge and those requirements.

That is also in the contract and it's also in something called the service level agreement. Both those documents will need to be agreed to by any interested party who will put a price bid in and, by putting a price bid in, they have agreed to those parameters.

Mr Hampton: I want to return to the question I asked earlier, and I'll use your terminology this time. In the spring of 1999, the government in effect sold a business called Highway 407. They sold the business for a lump sum of money, which, as I understand, was payable in the spring of 1999. Is that a fair description? The business was called the business of the 407.

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Mr Guscott: The government sold the business of 407 in the spring of 1999, yes.

Mr Hampton: For a lump sum payable in the spring of 1999?

Mr Guscott: For a lump sum that was payable, yes, as far as I know, in the spring of 1999.

Mr Hampton: Have you had a chance just since 1999 to look at what was paid in the lump sum and what the projected revenue streams look like?

Mr Guscott: No. The highway was sold in—perhaps I should have corrected your earlier statement—a competitive process in the spring of 1999 to the highest bidder. I haven't seen what the revenues have been since then.

Mr Hampton: So no one is able to do a sort of value-for-money audit, what was paid in a lump sum and what the revenue stream now seems to look like?

Mr Guscott: I think what can be said is that the highway was sold for what the market price was for that highway in the spring of 1999.

Mr Hampton: I'll repeat my question. No one has done, and no one is in a position to do, an analysis of the value of the lump sum of money versus the value of the revenue stream?

Mr Guscott: I haven't seen that information.

Mr Hampton: OK. I'm not surprised.

I just want to go to the proposition that we're facing now. We're now headed into the spring of 2002, and what is proposed is to sell a business for a 10-year period. This business is driver examination. Fair description?

Mr Guscott: Yes.

Mr Hampton: Is anyone doing an analysis before this happens? Is anyone doing an analysis of what the likely future revenue streams are and what the value of that revenue stream will be versus lump sum?

Mr Guscott: I would say that's being done by many people. Each of the bidding companies and consortiums without doubt are doing that, and as we develop our business case to know whether we're getting a reasonable price for that business, we will have done that as well.

Mr Hampton: Have you done it yet?

Mr Guscott: We're partway through.

Mr Hampton: Can you share that with us?

The Vice-Chair: Can you share it with us?

Mr Guscott: It's not complete. It's incomplete.

The Vice-Chair: OK.

Mr Hampton: When will it be complete? When can it be shared?

Mr Guscott: I'd have to check on that, Mr Chair. I'm not sure.

The Vice-Chair: OK. Thank you.

To the government caucus.

Mrs Munro: Much of our conversation has been directed around the driver examination function. I know that obviously with the introduction of the graduated licensing system, just the fact that it would put two road tests for an individual would put some increase on the resources. You've talked about the kinds of things you did as a temporary measure, hiring more people and so forth, but I wondered if you could give us an idea about the graduated licensing system itself. Obviously it put pressure on the system with regard to road testing, but clearly from the point of view of safety and so forth.

What other areas, then, are you seeing in terms of your review of that initiative?

Mr Rafi: The ministry conducted a preliminary evaluation, and what we did was we compared all novice drivers, so all drivers who were in preparation of getting their full licence, in 1993—this is just prior to the introduction of the graduated licensing system—and then examined all novice drivers in 1995. We examined their collision and injury rates and found, as I believe I mentioned earlier, there was a 31% decrease in collisions and a 24% decrease in injuries associated with those collisions among the novice driver population.

While that is a preliminary study, we are in the process now, after having seen a few more years of experience and results, to do a more fulsome and involved evaluation. We need to refresh those figures because now they've become dated and we have a longer amount of experience to draw upon.

Mrs Munro: Thank you.

The Vice-Chair: On to the official opposition.

Mr Hoy: Thank you. Is there any reason why the consortium that owns the 407 today could not bid on this driver examination service?

Mr Guscott: The bidders on the driver examination process had to be pre-qualified through a process that showed their businesses and their areas of expertise. There isn't anything that would have precluded them per se, as it would not have precluded anyone else, from doing that. Whether they were one of the approved bidding companies, I don't know, because I don't know the list.

Mr Hoy: So if they met the criteria and the demands of the ministry, that exact consortium could provide the driver examinations in Ontario?

Mr Guscott: Yes, exactly—

Mr Rafi: It's possible.

Mr Guscott: —if they were prepared to meet all the conditions of the tender.

Mr Hoy: Then we'd have a case where we have a consortium that has the Ministry of Transportation providing them with the penalty for non-collection of fees on the 407—thereby you're taking their licence away—and they issue drivers' licences?

Mr Guscott: No, there's actually no connection. The 407 agreement deals with the driving permit of the vehicle, the renewal of that driving permit. It does not deal with the driver's licence.

Mr Hoy: OK. I stated it wrong. But, in any regard, they could be involved, one way or another with the government of Ontario, with both the driver's examination and the licensing of the vehicle. In one way or another this consortium could be involved with the Ministry of Transportation in both regards.

Mr Guscott: We're dealing with a theoretical situation and I don't know what the case is. One of our criteria was whether or not there were conflicts between businesses, and I don't know whether that would have been considered a conflict.

Mr Hoy: In the auditor's report he talked about millions of dollars' worth of a consultant's work that was mismanaged as consultants were often selected without a competitive tendering process or engaged without a written contract in place. Is the ministry currently, at this date, involved with any consultants where you do not have contracts signed?

Mr Rafi: Not that I'm aware of. I think we took action. We very much agree with the findings of the auditor in the sense that his recommendations have been implemented, and we feel have been implemented beyond his requirements. As far as I'm aware—I stand to be corrected, but I'm not aware of that situation.

Mr Hoy: Could you provide the signed agreements with those consultants to the committee?

Mr Rafi: We'd have to take that under advisement. The firms themselves would have to be consulted. That's something they perhaps may not be comfortable with in terms of their own proprietary and financial concerns.

Mr Guscott: I think, Mr Chair, subject to any privacy issues, we'd be pleased to show that. I might add that the Provincial Auditor's findings with respect to consultants have been applied not only in the road user safety program but throughout the ministry. We have geared up our processes and our oversight for consulting assignments in every division of the ministry.

Mr Hoy: There seems to be a shift, from what I understood as a younger person, from the need for the public to know to a need to protect the competitive process. I've been involved in tendering as a farmer, and everyone in the room saw the tender. We have a situation in Ontario where huge contracts are given out and, as the auditor points out, in some cases mismanaged. We are using the words "competitive process" to protect the very people who have received the contract. I suggest quite firmly that the public has a right to know about these contracts, whether they are signed currently, as exist today.

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I'm really quite bewildered by the need to protect the competitive process. In the past, it's been an observation of mine that most contracts are eventually, if not immediately, made public. I think it lends credibility to the ministry—all ministries, yours included—and would therefore satisfy the needs of the government to show an open process and to protect the taxpayer. You've just stated that you want to ask the people you're in contract with whether they want to show the committee. It seems that they have more rights as to what is contracted with the government of Ontario than does the taxpayer. I would hope that you would be able to provide those contracts to us in a reasonable timeframe. If that is the law, that you have to ask these persons you're in contract with whether you can share it, it seems to be a one-sided operation, not protecting the public very well.

Mr Guscott: Mr Chair, if I could—in fact, the Chair may be able to guide us better on the information and privacy aspects of this, but we have no hesitation at all in presenting the contracts to the committee if they are

requested. We can't release contracts publicly unless we abide by the privacy provisions of certain things. But if the committee wants the contracts, and if it's in accordance with the committee rules, we have no hesitation in that.

The Vice-Chair: I think there's your answer. If the committee requested them, you'd take that request under consideration and determine whether you could provide them?

Mr Guscott: Absolutely.

The Vice-Chair: So we'll just leave it at that.

Mr Rafi: Mr Chair, could I just add to that a bit?

The Vice-Chair: Sure.

Mr Rafi: Thank you. It might be helpful to distinguish between the competitive process and the comment I made about protecting their proprietary interests. In some circumstances, we mentioned that we found a vendor-of-record process, which was initially a competitive process. I think the auditor has commented on that and we've responded to that. I think as well, in terms of contracts being in place, the auditor has identified that we didn't have contracts in place in a timely manner. I don't want to leave the committee with the impression that we had no contracts. We did have contracts, and we recognize that our administration of that needs to be improved and we have set about to do so. So I just wanted to make sure that the committee was aware that we were respecting the findings of the auditor and have indeed acted upon them.

Mr Richard Patten (Ottawa Centre): I have a couple of short questions. One is, at the completion of the audit in February 2001—it's about a year ago—in their report, the auditor stated:

"Although we requested that the ministry provide us with a copy of the parts of the business case that were completed, the submission"—this is under the section of alternative service delivery—"made to the cabinet committee on privatization and SuperBuild, and the committee's decision on the ministry's recommended option, the ministry only provided us with partial information and did so only after our audit was completed. Therefore, the ministry did not demonstrate to us that a proper cost/benefit analysis was done, nor did it demonstrate the validity of the assumptions and other information on which the decision to outsource was made."

I see your report card here says under this that the business case is completed. As the auditor, did you get an update on that business case?

Mr Peters: No, because we didn't ask for one.

Mr Patten: Oh, you didn't ask for one?

Mr Peters: No.

Mr Patten: OK. Would you like one?

Mr Peters: We will follow up on this audit, of course, for the 2003 report.

Mr Patten: OK. I should have asked this before because that was the heart of my question. Given the concern you raised at that time, my question obviously was that the business case be prepared and be the basis on which you moved ahead.

Presumably the history of the 10-year time frame, which now seems to be developing into a trend, is a very long time, and some of the concerns the members have already raised about that length of the deal with multiple companies and consortia etc leaves us with some worries. Presumably in negotiations, this is where the companies say, "Well, with this kind of volume, the expenses and the time it takes to implement, it's really got to be a long-term arrangement, otherwise it's not worth it."

Were there bids that looked at other time frames or was this something that was promoted by the ministry in terms of a 10-year arrangement? Or was this something that came by way of feedback from the companies that wanted to enter the bidding process?

Mr Rafi: Just as a minor point of clarification, by way of answering the question, the process is still alive and we are awaiting RFP bids from bidders. The length of the licence agreement was set and established by the government based on an assessment that indicated we would get interest in the business that would be for a length of time necessary for someone to make the necessary investments in staff training, in learning the business and getting their return on investment out, as well as the margins they think are relevant and appropriate for this type of service provision. So we did not ask in our expressions of interest if—

Mr Patten: So that was a given for you?

Mr Rafi: Yes. The government made that decision, so we didn't get that feedback from companies.

Mr Patten: We'll take the government on on that one in question period, if we ever get to it.

I was interested in your discussions today about the ever-increasing complexity of the interfacing of various ministries inside and outside of government in terms of your information and technology development, which must be extremely challenging. I would respect anyone taking on that kind of a challenge.

However, one of the issues that has been raised, and I'm sure you have heard about this, is the selling of information to private firms. I would like to ask you, because we're led to believe that it involves numerous companies—50-odd companies—to what extent does this go on, and has this been cleared with the privacy commissioner's office? Let me leave those two questions with you first of all.

Mr Rafi: The ministry does have an information management process whereby it also has partnership arrangements through contract with insurance firms, in some cases with marketing firms and in some cases various investigative firms and so on.

The contracts in 1994—I believe we worked with the Information and Privacy Commissioner's office and they had identified and indicated that we had a sound process. In 1999 and 2000—I remain to be corrected on the dates—we had some concerns expressed by the privacy commissioner's office. We worked with them in detail. We did spot audits of a cross-section of these firms and we found where they could improve their administration of information. We have tuned that up with those firms

and have issued the changes to our contractual relationships with them.

In addition, we have identified a very strong respect for privacy and access to information in our driver examination alternative service delivery to the extent that Dr Ann Cavoukian, the Information and Privacy Commissioner, has written in full support of the provisions that were established by the minister in the contract, in the legislation requiring the appointment of a privacy officer to the successful proponent.

We feel that we continue to improve our access and handling of information, subject to the satisfaction of the privacy commissioner.

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Mr Patten: This is, as you know, an issue that, because of the nature of the interfacing, is raised depending on which ministry is involved in a particular concern, issue or discussion. But there is a growing concern out there, and, quite frankly, I think the other jurisdictions have done far better than we have here in Ontario. I suspect that the privacy commissioner is raising concerns but saying, "Well, all right, it's within the purview and the legalities of what we have in this particular province."

But I would say to you that if Mrs Smith finds out—and as a matter of fact, we did get some calls on this. What is that information, where does it go, who uses it, who benefits by it and who profits by it? We're not able to tell them, except we know that the government is selling information that has been gathered under one auspice and sold for commercial purposes. We don't know to what degree the government benefits. Presumably, there has to be a benefit; otherwise the government would not do that. But it's still under a shroud of secrecy. Quite frankly, I find that disturbing, and I'm concerned about it; a lot of people are concerned about it. It is not limited to your ministry; there are others where it's a general concern as well.

So I would ask you, what kind of examples? Say you sell some information to an insurance company or, let's say, a marketing company. All of a sudden when I pick up the phone, someone says, "Hello, Richard Patten. I'm calling from ABC Marketing. I'd like to know whether you would like to buy—" Where the hell did they get my name from? It could have been, maybe, from my driver's licence information. I don't know.

Mr Rafi: The ministry guards what we consider to be personal information, such as address information linked to an individual's name, very, very carefully. In the circumstances where we provide information, in the example that the member was referring to, we are not providing address information. I think, given what we have seen exists in North America and how we've benchmarked our information access protocols, we know that in the US there are jurisdictions they call open-record states where any information is available to anybody for purchase and for sale by the jurisdictions. The Canadian jurisdictions—and Ontario is a leader

among them—have been very careful to ensure that there are strict protocols and contractual provisions in place.

When one goes to inquire about insurance coverage and one wants to secure coverage, insurance companies must access the driver's record information. But again, they need various types of information. Those are strictly contractually provided. In cases of information that's given for automotive recalls, it's vehicle identification number information, so it's about the vehicle, not the individual.

Lastly, perhaps, I might add that there are call centre operations in the private sector and data-matching that occurs in the private sector, through everything from Internet access to filling out a sweepstakes form to filling out a draw ticket to buying credit card purchases, that expose people to their information, and the data-matching that occurs in that context is far greater than the allowances that we provide in information that's given out or sold.

The Vice-Chair: That concludes that block of questioning. Committee members, we're at this stage: the clerk has just gone to see if Mr Hampton is available. I see there are still some papers there. If Mr Hampton had one more block of questioning, each caucus would have had equal opportunity. Also, it was my understanding that adjournment time would be around four at the latest.

Mr Patten: I would wind up fairly soon, in the next minute or two, if I was just permitted to complete this line of questioning. That would be it for me.

The Vice-Chair: All right, go ahead. In the meantime, we're trying to locate Mr Hampton. A minute or two.

Mr Patten: I'm searching here—and certainly don't take any of my requests in any personal way, but I do want to pursue this. I wonder if there would be a map. I would ask the auditor to listen to the question because it might come under his purview as well, and that is: could we do an audit trail that says, "I'd like to know where information goes from my neighbour Mrs Smith," where that might go? I know there are many, many ways—and perhaps the majority, maybe all, I don't know, are legitimate—in which government does business, but the more I've been involved with government, the more I become concerned with big government. All of a sudden we lose control over what happens with private information. I would like to know if there is a way of being able to map and say—and I'm worried about the commercial side more than anything else. If you're talking about medical information that's required for a review of someone's eligibility because of age or a handicap or something of that nature, and they have to go through therapy, I'm OK with that. But when I go in and I see my doctor—it's probably a bad example—and I say "I'd like to see my file," my doctor gets all uptight and he thinks it's his file. I say, "No, that's my file. I'd like to see that, if you don't mind." I can see that, I can get my blood test and I can get pretty well anything. I think that's a very healthy thing for any society to do, and I think some jurisdictions do that well.

Is there a way to say, "Listen, if we gather information on you, there are six areas or nine areas in which

information sharing may occur," maybe with another ministry here? I'm particularly concerned about the commercial aspect, where someone profits in one sense or another, externally in the private sector, or maybe even the government indirectly. I think people need to know that and should know that. Is there a way of tracking that to hopefully provide some comfort for people so that they're not worried about certain information, because a lot of it sometimes has to do with the medical information that's also shared with your ministry?

Mr Rafi: I would address a couple of things, if I might. One would be that, in our discussions with the privacy commissioner, one of the changes we've made to the capturing of information in the first instance is the actual indication, regardless of where one might be. So whether you're accessing services through the Internet or whether you're at the counter, the consent notices have been made far more clear. On the forms themselves, the consent notices are made clear so that when an individual is providing information, you provide it under the auspices of the Freedom of Information and Protection of Privacy legislation. That speaks to the first provision of information.

I think in terms of the information that then goes out from the ministry, we have begun a process of undertaking audits of those people we contract with to ascertain what happens when the information about the individual responsible hits your company or your insurance company's desk. What protocols do they have in place where that information then goes beyond? Have those people been identified in the contract? If not, why not? We have begun that process. It's something that has come from people throughout the province and MPPs who have expressed some concerns or questions. But we've worked in concert with the privacy commissioner's office and have structured those first preliminary audits—because that's all they are for now—in a way that meets their interest and their concerns. We could not see a higher judge of whether we are on the right track in that regard than the Information and Privacy Commissioner.

Mr Patten: My last question is just to—

The Vice-Chair: This was supposed to be two minutes.

Mr Patten: Yes, I know. This is it. Could we receive a report? Presumably, there would be a report after the audit on that. Could the committee receive a report of that audit and your findings, particularly in relation to respect for private citizen information?

Mr Rafi: We can certainly give you our protocols. We can give you a copy of the contract we use. I can't see why we wouldn't be able to, if you'll allow us to expunge the names of the firms, give you a copy of the audit results and what our next steps are going to be in that regard.

Mr Patten: That's fine. Thank you.

1520

Mrs Munro: We're going around? We're continuing?

Mr Maves: Do you want to go another round?

The Vice-Chair: We'll go until the committee decides we shouldn't go any more. As I said, we have the time of 4 o'clock in mind, but it's up to the committee. I checked with both caucuses here and I think they have one more little question. It's our information that Mr Hampton won't be back.

Mrs Munro: OK, then I have one little question as well. First of all, I want to look back for a moment at the issue around privatization, because obviously the ministry has a long history of experience with privatization of various services. I'm wondering, in the context of that experience, are there lessons that you would apply as you go forward with further privatization such as we have discussed here today?

Mr Rafi: I think in the experience the ministry has had over the decades with private issuers, along with other examples the member is alluding to, one of the learnings we've applied—and they don't just come from our own experiences but experiences across a competitive assessment we did by benchmarking other jurisdictions. Those are really reflected, we feel, in the oversight and monitoring requirements that have been injected into the contract and service level agreement for the alternative service delivery for driver examination.

They speak from the standard-setting approach, in the first instance, to the monitoring throughout the delivery of the services; the very strict provisos for access to information and protection of privacy; the strict provisos on fees and how they will be handled as the sole purview of the Minister of Transportation; the auditing and spot-checking of the proponent throughout the relationship on a regular and an irregular basis so that we're not signalling our interests and allowing someone to mask what's going on. All of those things, we feel, are ways that we have learned from our own experiences, learned from what others in other jurisdictions have done, to make what I might call a made-in-Ontario solution for hopefully what will be a successful initiative.

Mrs Munro: Just as a follow-up, obviously that sort of thing would include such things as customer satisfaction and making sure people are happy with those kinds of services that are being offered.

Mr Rafi: Yes, we will definitely include customer satisfaction surveys, and I shouldn't have neglected that area, which is a first trigger. If you look at patterns and trends, our customer satisfaction levels have exceeded the retail sector, food service and other government departments, especially federal. That will give us a pattern and an indicator of what we need to identify and improve upon, and our private issuers have been a good example of that. When you combine our customer satisfaction in the private issuing network with our own, I think as the deputy mentioned in his opening remarks, we have a very high satisfaction rating of 85% plus. So we'll learn from that as well.

Mr Hoy: In the future, when the ministry does move toward privatizing driver examination offices, you will no doubt be selling assets, correct, or turning over assets to the winning consortium or firm?

Mr Rafi: The information technology equipment will be retained as the government's property and leased back, I believe. The property and those assets are the purview of the Ontario Realty Corp, so the proponent will have the opportunity to pick up those as market-level lease agreements.

Mr Hoy: But you would lease them back on a cost recovery basis?

Mr Rafi: Yes. The Ontario Realty Corp will do market-level lease arrangements with the proponent unless they choose not to use them.

Mr Hoy: And that would include the \$101 million of computers that were not supported by a sufficient strategic plan and a proper business case put forward by the ministry?

Mr Rafi: In actual fact, there has not been \$101 million expended, nor would we expend it without a strategic plan or a business case. But the changes that have been made at the terminal, in other words, to the physical hardware and the upgrading and changes to that equipment, will remain the asset of the government—and I want to confirm that, so I have—and they will be leased back by the proponent as well as perhaps a data access fee if indeed they are generating access to data.

Mr Hoy: There have been a great many issues spoken about here today: consulting firms, a lack of contracts etc. I think the public found this particular report by the auditor to be very problematic, and there will be other avenues for members to raise questions. Some of those will deal with the government itself and not necessarily with the deputy or assistant deputies and staff.

I am not satisfied that the move to privatization was proven by yourselves here today to be one that is required. The six-week time frame is reported to be working generally well in Ontario. The government wants the same amount of revenue. Customer service can be flexible today with the public service that exists here in Ontario, and I'm not convinced that the process will be totally open to the public after the fact. I also find that the 10-year agreement seems to be rather arbitrary and might not allow others in the future, a decade from now, to avail themselves of bidding on this process.

However, I want to thank the auditor and yourselves for being here today and answering the questions put forward. As I say, I'm not convinced that all is well and good in your next move or moves. That's not necessarily a personal opinion; it's one that's shared by many persons who are concerned about the lack of credibility, accountability and process that the ministry has demonstrated. Had it not been for the auditor making the public aware of these situations, I don't know when we would have ever discovered some of the failings that existed at MTO, as shown by this audit.

It is quite true that the graduated licensing posed a serious problem for the government, and thereby MTO. However, you've rectified that problem by hiring persons. Now the statement is made that we must privatize something that is working well in order to continue doing something that is working well. I haven't

found your rationale to be persuasive enough for me, at least, but I do appreciate your being here, and other staff members in the room who have patiently waited through the afternoon. I thank you for your patience with us.

The Vice-Chair: If everybody has concluded their comments and questions, just a couple of things before you leave. You offered, I believe—just to confirm this—that there would be a report made available to the committee that's relative to the privacy issue that was discussed just a few minutes ago.

Mr Rafi: Yes.

The Vice-Chair: So that'll be forthcoming.

Earlier there was the comment about asking for contracts. It's normal for the committee to write to the ministry and ask for information once we've concluded this part of the process. If there are any requests of that nature, they should be brought to the committee and made known to the clerk. Are there any requests? Normally it's at this time that these kinds of requests are made. There may be additional requests.

1530

Mr Hoy: I asked the deputy and the assistant to respond to the report that millions of dollars worth of consultants' work was mismanaged as contracts were often selected without a competitive tendering process or engaged without a written contract in place. I don't feel that I can say to the deputy which contract it is, because it's not named here. I asked if those contracts were now signed. It is a rather broad question, I admit, but by the deputy's and the assistant's answers today, they don't provide the names of the companies. So I'm asking a rather blind question of the deputy to respond to. Not knowing which company it was makes it difficult for me to ask, but I would ask them of their own goodwill to respond to the committee as to whether those contracts are indeed, as of this date, now signed.

Mr Rafi: I'm sorry, the answer is yes, they are, absolutely.

Interjection.

The Vice-Chair: As long as we have the discussion on the record.

Mr Fitzmaurice: When the consultants were engaged originally and they went to work, there was not a signed contract in place, and that's what we mean by that point. At a subsequent date, contracts were completed and signed and were in the file, if that answers your question.

The Vice-Chair: There has been a verbal assurance but Mr Hoy would like a written assurance. That's something you can ask for.

Mr Hoy: With two answers in the positive, one coming from the auditor and one from the ministry, I don't believe I need a written response.

The Vice-Chair: OK, thank you.

Mr Hampton, you snuck in under the wire. We were about adjourn, but you were next on the list.

Mr Patten: Don't tell him that.

Mr Hampton: I want to ask some questions about privatizing issuing offices. How many MTO issuing offices are there province-wide?

Mr Rafi: There are 281 private issuing offices. There are six ministry issuing offices.

Mr Hampton: Six ministry and 281 private issuing offices?

Mr Rafi: That's the term we use. Yes, that's correct.

Mr Hampton: Where are the six MTO?

Mr Rafi: Here in Queen's Park, the Macdonald Block complex, and Keele and 401, the Downsview complex. I'll need my staff's assistance on the other four. I'm sorry, I'm drawing a blank.

When we use the term "issuing office" for the ministry, in some cases they would be co-located with the driver exam centre. So there would be maybe two or three wickets that we'd call the issuing office end of the business.

Mr Hampton: The administrative officers at MTO—I guess I want you to look back and then look ahead. How many private issuing offices in general would an administrator be in charge of, on average?

Mr Rafi: On average—bear with me on this—in the neighbourhood of approximately 20, and that's a ballpark figure. We will get a more accurate figure for you.

Mr Hampton: So a given administrator or administrative officer would be in charge of about 20 of the private issuing offices?

Mr Rafi: That's correct.

Mr Hampton: What would be the duties of those administrative officers who would be in charge of the private issuing offices?

Mr Rafi: Principally, they are there to assist a new issuer who gets established: to help them with training, to help them with customer resolve issues that they might have questions about, to help them with customer service efficiency—sometimes it has to do with the office flow, the set-up of the location—and to advise them on their practices. So it's really an adviser role, a role that they provide input to. There are many other points of contact that the issuing staff have beyond the issuing office administrator, which is their title.

Mr Hampton: So they would train, they would deal with customer service?

Mr Rafi: Yes, that's correct.

Mr Hampton: Who would have looked after the auditing function of those 281 private issuing offices?

Mr Rafi: We have a small group in what's called licensing services. That branch undertakes spot audits and reviews the information of private issuers on transaction reports that they undertake on their reconciliation, as well as normal auditing practices that are in place.

Mr Hampton: So the outsourcing of the auditing function—I would assume that that licensing services group has more to do than just auditing the private licence issuers, that they have other duties as well?

Mr Rafi: We have a small group that does audit and verification and the remainder of the branch has many, many other responsibilities among the staff that work there.

Mr Hampton: So how was the decision arrived at to outsource that auditing function?

Mr Rafi: Again, I would say that, in examining business lines where there are service providers that can provide a higher degree of coverage in what is a very dispersed business, including our own driver exam centres, we examine where there might be business interests in providing that service and where there might be better coverage provided by the private sector. So we went forward to the Management Board of Cabinet on the outsourcing elements and got approval to again test the marketplace to see if, through an RFP process, there would be interest in having a service provider provide those services on contract to the ministry.

Mr Hampton: Was a business case made?

Mr Rafi: Yes, it was.

Mr Hampton: Did the auditor see the business case?

Mr Rafi: I don't know. For what we call the Kingston back office, just to jog your memory?

Mr Peters: We didn't review that.

Mr Hampton: OK, I was just wondering.

For the other issue, I just wanted to ask a few questions about revenue collection and control. From the numbers I've seen, in 1998 you wrote off \$250,000 and then I believe by the year 2000 you wrote off \$925,000 as uncollectable?

Mr Rafi: Yes, that's correct. Our write-offs increased in 2000. We do write-offs after seven years of uncollectable debt, but we keep that uncollectable debt on our books and in our system and still try to go after that uncollectable debt. In 1993, there were increases in fees for validation stickers and other areas, so seven years later would be 2000, and there may be a case that suggests that's why we saw an up-tick in the write-off amounts.

Mr Hampton: What about for the year 2001? Do you know what your write-off amount was?

1540

Mr Rafi: Offhand, I don't. Perhaps I could get that number to you shortly.

I might just correct myself. There are eight MTO issuing offices: in Thunder Bay, London, North Bay, Ottawa, Kingston, Downsview, which is Keele and 401, here in Queen's Park, and in Hamilton.

Mr Guscott: Our write-offs for 2001 are zero. We're going back and redoubling our efforts at collecting those amounts.

Mr Hampton: It's zero?

Mr Guscott: Zero.

Mr Hampton: Explain that to me.

Mr Guscott: The write-offs were debts that weren't collectible after seven years. We've decided that we want to go back and see whether some of the things that we were going to write off we can in fact collect on. So we're going back to the collection agencies to handle those debts. We're taking other looks at address files etc to see where the individuals may be and we're going to take an extra effort at collecting those debts.

Mr Hampton: So at this point your write-offs are zero?

Mr Guscott: That's correct. Our write-offs for this fiscal year will be zero for that program.

Mr Hampton: That doesn't mean necessarily that you've collected money.

Mr Guscott: No, that means we're not prepared to accept that we're not going to collect that money this year.

Mr Hampton: At a certain point you're going to have to account for what you couldn't collect.

Mr Guscott: Absolutely.

Mr Hampton: So when will that happen?

Mr Guscott: We will probably rectify that next year or the year after, depending on when we absolutely get to the trail end, the cold trail, on collecting some of that debt. But we're putting an extra effort into it. It had grown much too large and had been noted by the Provincial Auditor. We're taking an extra effort at it and, I might add, it has already been successful in a few areas.

Mr Hampton: You must keep track, I would hope on an annual basis, of how many NSF cheques, for example, you get. How many NSF cheques would you have received in the last year?

Mr Guscott: On average, we get about 25% NSF, not collectible.

Mr Hampton: So what does that work out to be?

Mr Rafi: I don't know the answer. I do know that the auditor identified the number of 39,000 not-sufficient-fund cheques. We have responded, we think, quickly to that identification, as well as having noted that in the revenue control review we had done just prior to the arrival of the Provincial Auditor. To that end, what we have put in place is, once a cheque has not cleared the banking process with us—and I'd be happy to go through what that process is—then we undertake to institute an immediate phone call to the debtor. Some 30 days after that we send a notice, then again at 60-day and 90-day intervals, which is something we instituted last year. In addition to that, any debt that's older than two years we are now sending to collection agencies. While that is a large number of not-sufficient-fund amounts, there's no question about that, in the last 12 months we have recovered almost 5,700 from the 39,000, representing about \$1.6 million.

So just to emphasize the deputy minister's points: we are in the process of responding to the auditor's findings in that regard and are also undertaking to go after those debtors in a manner that is within industry standards.

The last thing I would say is that in 2000, even though that write-off amount was as high as it was, that was less than 1% of our revenue. Essentially, the ministry collects 99% of its revenue, which is way above industry standards, where write-off amounts on average are between 0.5% and 1.5%.

Mr Hampton: Since you're saying you're not writing off any this year, can you anticipate when you're going to make that write-off?

Mr Guscott: No. That's going to be a function of when we run out of all avenues to collect that debt. The options range from whether we can track down people

who have the debt. The debt that's owed on drivers' licences is relatively easy to collect. It's harder to collect it on vehicles, which may not even exist any more. I think it would be fair to say that the very observation the Provincial Auditor made about the size of the write-off and the concern of the minister that this was a trend that had gone on for a number of years have caused us to take another look at our collection measures. We are in fact exploring policy options that may make it so that taxpaying Ontarians aren't subsidizing those who are trying to not pay that debt.

Right now, you can pay any of your MTO fees with a debit card, a credit card, cash and currently a personal cheque. Clearly, it's the personal cheques that are the problem.

Mr Hampton: Just from an accounting perspective—and maybe the audit staff can help me out here—what amount are you dealing with this year which otherwise, but for this change in policy, would have been written off? Do you know?

Mr Guscott: I can't recall the exact amount.

Mr Hampton: For accounting purposes, how is that recorded?

Mr Guscott: It's a matter of practice that it's written off after seven years. We're saying we want eight years to try to find this particular amount. As I say, we have made some substantial progress in the six months since we've made that decision.

Mr Peters: That is a question my office looks at in the audit of the public accounts, whether the provision is adequate. So if the ministry's efforts show that collection has improved to the point that the allowance can be

reduced—there are really two stages on any receivable. There's one creating an allowance, because it is doubtful whether it will be collected, and then the effort is made, and then at that point, when all efforts to collect fail, a write-off actually occurs. So it's a two-stage process.

Even though the write-off may be zero, we may still look at the amount of the allowance that is provided against these accounts, to see what can actually be collected. It's part of the public accounts process in which we have to determine or audit the valuation put on the receivables by the responsible ministry or entity in the government. Does that help or confuse?

Mr Hampton: I think I get the picture. So from your perspective, you will still determine if the allowance is acceptable, predictable etc, and the write-off will be made now after eight years instead of seven. So you've effectively changed your practice by one year.

Mr Guscott: The practice that we've changed is more with respect to the vigilance that we will go after these unpaid debts. I'm not saying that it's a permanent change to eight years, and subject to accounting practices, it may take eight and a half to collect some of them, but we have made substantial progress into what we would have written off by a special and concerted effort this year.

The Vice-Chair: Thank you. If there is no further business before the committee, I want to thank you as well, Mr Guscott and Mr Rafi, and your staff, for coming before the committee and helping us better understand the audit report.

Therefore, we will adjourn until tomorrow morning at 10 o'clock.

The committee adjourned at 1549.

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Mardi 19 février 2002

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public accounts**

Committee business

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comptes publics**

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STANDING COMMITTEE ON
PUBLIC ACCOUNTSCOMITÉ PERMANENT DES
COMPTES PUBLICS

Tuesday 19 February 2002

Mardi 19 février 2002

The committee met at 1006 in committee room 1.

COMMITTEE BUSINESS

The Vice-Chair (Mr Bruce Crozier): Good morning, ladies and gentlemen. We're ready to open the committee this morning.

Another bit of an organizational change: you'll see the motion of Mr Patten is first, organization of Bill 53 is second. With Mr Patten's agreement and your indulgence, we are going to deal with number two first, the organization of Bill 53, because Mrs Bountrogianni has another committee commitment at this time. OK, folks? OK.

We'll get underway with the organization of Bill 53, An Act requiring the disclosure of payments to former public sector employees arising from the termination of their employment. Clerk, where do we go from here?

Clerk Pro Tem (Ms Anne Stokes): Normally in organization there are a number of considerations. One is public hearings. We would determine what day, what times you'd like to meet and what times you'd like to end, so how much time we have; if you would want clause-by-clause done once the House comes back. Then, if you want to advertise, would it be in the newspapers or would be on the parliamentary channel and the Internet? Witnesses to call in to the clerk's office: what deadline do they have to call in by, which of course would be dependent on the day we pick for—I noticed that the schedule has a possible March 7, possible Bill 53. If that's a good time, then we could have the deadline the week before for them to call in, which gives the clerk time to contact people and set up the schedule; and then how long you'd like them to speak for; a deadline for written submissions and if there are opening statements. That's the kind of thing.

The Vice-Chair: So how be we deal with the public hearings, time and date? We already have a time and date suggested.

Mrs Marie Bountrogianni (Hamilton Mountain): We could probably deal with this very quickly.

The Vice-Chair: Yes.

Mrs Bountrogianni: First of all, thank you for discussing this today. This was passed unanimously by all sides of the House, so I thank all sides of the House for passing this bill. It's a very simple bill so the clause-by-clause eventually won't take very long. It's basically requiring the disclosure of payments to former public

sector employees, not covered by collective agreements, arising from the termination of their employment.

March 7, I believe, is the last day of this committee meeting, so I would appreciate having that day. I think 20 minutes for organizations, 10 minutes for individuals works well in the other committees. Unless I hear a different opinion, I think that would be wise for this bill as well. A week before the deadline is fine. We can also assist the clerk's office in getting witnesses and then all three parties can also submit their lists for all sides of this issue to be heard.

Because there are certain parts of the province where this was a bigger issue than others—for example, Ottawa, where there was a \$700,000 golden handshake; there's a whole saga in Hamilton; Sarnia and Toronto as well—I believe in some of those newspapers we should have an advertisement, as well as on the parliamentary channel.

Clerk Pro Tem: So a one-day ad in Ottawa?

Mrs Bountrogianni: Ottawa, Toronto, Hamilton. Sarnia also has had—it's all across the province, but those were the biggest ones, from my research, where millions were given secretly to get rid of—

Mr Bart Maves (Niagara Falls): You're not suggesting we travel there for hearings?

Mrs Bountrogianni: No.

Clerk Pro Tem: In Toronto there are the four dailies; in Ottawa there's more than one paper and there's French and English.

Mr Richard Patten (Ottawa Centre): Ottawa is travel for some but not others.

Clerk Pro Tem: Would you want all the daily papers in those four—

Mrs Bountrogianni: I leave that to your discretion, clerk. From past history—I don't know what the readerships are in Toronto. Perhaps someone can guide me here.

Mr Maves: We had a counterproposal to try to save some advertising money. We thought we would appreciate having one day of public hearings on our first Thursday back in the upcoming session—a third, a third, a third—and let each party pick a third, a third, a third of the people to make presentations, 15 minutes each with a 15-minute opening statement by Mrs Bountrogianni. That takes the full two and a half hours, and it saves us all kinds of advertising money. You guys bring in three, Shelley can bring in three and we'll bring in three.

Mrs Bountrogianni: So you're suggesting not March 7?

Mr Maves: Yes. We would prefer to do it the first regular meeting of the committee, which would be the first Thursday back in the Legislature in April or May.

Mrs Bountrogianni: I guess it's up to the committee, but I would prefer March 7. I made a lot of changes to be here today to do this because of the March 7 deadline and for other reasons too.

Ms Shelley Martel (Nickel Belt): I'm curious why we wouldn't go with March 7. It's already a regularly scheduled hearing date. We've got it in our schedule to meet that day. Why wouldn't we just proceed with this bill on that day?

Mr Maves: We're trying to reduce this three-week period. I talked to Richard about it yesterday and I'm going to talk to you about it today. We're trying to reduce these three weeks and just trying to compress the timetable a little bit, and maybe expanding some of the hours will compress the timetable.

Mr Patten: You want to look at dealing differently with the time thing. I didn't commit myself to anything, by the way, but I'm prepared to look at it. I think we're further ahead if we can do this before we get into the House; then we can march on with other things. We're not sure when the House is going to come back. It could be some time in late April. We have the time available. We perhaps can achieve both objectives, that is, look at the efficiencies of the time we have and save a day or two. But I'd like to see us deal with this and then it's off the table—not off the table, but it's proposed.

The Vice-Chair: The Chair is interested. Why, once the schedule was agreed to by the committee previously and it's all been set up, is there a compelling reason to condense the time that we sit?

Mr Maves: We prefer not to sit three straight weeks in Toronto from 10 to 3 every day, and if we can compress it and maybe sit some days from 9 to 5 or whatever, then I wanted to pursue that with my colleagues across the way.

Mr Raminder Gill (Bramalea-Gore-Malton-Springdale): I guess one of the other reasons is that we are, whether people like it or not, in the middle of an active race for the next premiership and I think some of us are involved in that. I know it may not matter to the committee, but if it can be considered, that's a fair thing to say.

Ms Marilyn Mushinski (Scarborough Centre): It is my understanding, Chair, that there have been some conflicts between various committees sitting, which has led to some particular pressures for particular members. It's further my understanding that that was the reason there were some informal discussions going on to see if there was some way in which to deal with those particular pressures, including the condensing of the schedule. That's what I was certainly led to believe.

Ms Martel: I appreciate the comments. I wish we would have had this discussion when we set the schedule, because clearly everyone was to go back, those who had

other members, and confirm that those dates were fine, and we assumed that they were.

Having said that, I'm prepared to condense the schedule, but I'm not prepared to see anything drop off that we already agreed to. So for two of the sections, if we can sit in the morning and in the afternoon, I'd agree to that, but I think then what we need to do is make sure we finish what we agreed we were going to do, which was to do something on this bill. So if you want to sit some of the chapter 4s—one in the morning, one in the afternoon—I'd agree to that, providing that we're still going to allow some public hearings on this bill.

Mrs Julia Munro (York North): I guess one of the things is that, obviously, because this has come about as a result of informal discussion, clearly there would have to be some further discussion on how that new timetable would look. So I think that, to take Shelley's comments, is something we should certainly look at, because obviously there seems to be some general agreement on the ways in which we may be more efficient in the period of time we have set aside. I think the point that was being suggested by my colleague was not to in any way take from the commitment to look at Mrs Bountrogianni's bill, so I would want to emphasize that. It was, I think, motivated by the issue of whether there are some ways in which we can do some rescheduling that would provide us with greater flexibility in the overall three-week period, but not to take away from the intent and the commitment to look at this bill.

Mrs Bountrogianni: I appreciate Mrs Munro's comments and the reinterpretation of what Mr Maves said. He did say, when the session starts, to do this. But I'm hearing from you that's not how you heard that, which is great. As long as this gets heard before—we don't know when the new session is going in. With all due respect to Mr Gill—and there is a great deal of respect from me to Mr Gill—I don't think a leadership race should stop us from doing the business of the day. As far as saving money, which was the concern of Mr Maves, as far as advertising, it's going to save millions in golden handshakes if we pass it. This is just penny-smart and pound-silly. So I'd go with what Mrs Munro was saying. I'm flexible, as long as this is done before the session starts.

The Vice-Chair: So is the March 7 date the crux of this? In other words, if we can get around March 7 by freeing it up, is that the objective?

I'm just reminded that there are, of course, ministries that are scheduled on the days that we have put in the schedule. There is a minimum of seven or eight people, and even more when it comes to setting up our own individual schedules, scheduled to be here for this period. So we have to take all of that into consideration.

Mr Maves: Can the clerk show me the outline for March 7 as it currently exists? I don't have that.

The Vice-Chair: It's just this bill.

Mr Maves: Marie, when do you want to do clause-by-clause? How many people do you want to have come in for hearings?

Mrs Bountrogianni: There are a number of people who are outraged by this, so I would suggest scheduling a full day.

Mr Maves: How many people do you want to have come in?

Mrs Bountrogianni: About 20 minutes per organization, 10 minutes per person.

Mr Maves: How many? Just give a number.

Mrs Bountrogianni: It's very undemocratic for me to say how many.

Mr Maves: Why?

Mrs Bountrogianni: The number of people who are concerned—at some point, there will have to be a cut-off.

Mr Maves: I'm just curious what that is, so we can figure out the timeline for the day. That's what we're discussing.

Mrs Bountrogianni: But I think the day was scheduled for this, so I believe there would be—

Clerk Pro Tem: If you count, at 20 minutes each, that would be three an hour. So over a six-hour day, that would be 18 organizations.

Mrs Bountrogianni: Right.

Clerk Pro Tem: If it's 10 minutes each, then that's six people per hour; a combination might be four people per hour.

1020

Mrs Bountrogianni: Would you like to shorten the day? Is that your—

Mr Maves: No, no.

Mrs Bountrogianni: Because we could limit it to 10 minutes and then shorten the time, shorten the day. I'm fine with that. Usually, what needs to be said can be said in 10 minutes.

The Vice-Chair: Do you mean to shorten the day in order that you could do clause-by-clause or just—

Mrs Bountrogianni: Sure, sure.

Mr Patten: I don't think clause-by-clause is going to be a big problem. If we went from 10 to 3 and then to clause-by-clause, we could finish the whole damn thing.

Mrs Bountrogianni: It's a very simple bill.

Mr Maves: You can't do clause-by-clause the same day you do public hearings. You have to take into account the input.

Mr Patten: Are you kidding? We've done this before, my friend.

Mrs Bountrogianni: It's a very simple bill.

Mrs Munro: I support the fact that we have made this commitment, if that's the wish of the committee, but I would not support doing clause-by-clause the same day. You've suggested that there are a number of people, groups, who are outraged by this bill, and obviously there is a need, then, to provide that opportunity for response to the bill. So it seems to me that the direction we should give the clerk is something along—I don't know whether 20 minutes is a long time for an organization, given the nature of the bill. I mean, they're going to be very unequivocal about yea or nay.

Perhaps if you looked at 15 minutes for an organization and 10 for an individual, in that kind of a context

you'd probably have a reasonable response from the community at large. I guess it depends on the number of people who respond to this.

I'd like to go back to a point that was made earlier by a colleague with regard to the question of putting this out in the general public. It's a very specific bill that impacts on a very specific group of people within the community, and it would seem to me that probably it's not necessary to try to cast too wide a net. Obviously, in your experience with the bill you would know some of the key players. There are certainly people whose professional, if you like, or technical ability to comment on the bill is important for the government members. So I think we could probably look at making suggestions to the clerk as well as posting it on the site, but it seems to me that because of the nature of the bill the word is going to be quickly out and we're going to get the kind of response that is appropriate without trying to cast a broader net.

I would suggest that we look at that kind of an approach to the people who might wish to come to make a submission and that we look also at a timing framework. Certainly just by limiting it to 15 minutes, you're up to four an hour for your institutional comments. Mr Maves asked you how many people, and I can appreciate that that's perhaps a little difficult to give as a finite here we are. But we do know, from the nature of the bill, that a fairly narrow group of people are impacted by this bill. So it seems to me we might be looking at a relatively specialized group of people who would want to comment on this bill.

Mrs Bountrogianni: I appreciate your comments, and I'm quite willing to look at ways to save advertising money, because I could have a press release, for example, that would give the same information. So I'm quite willing to look at saving money.

With respect to your comments of a narrow net, you're right technically, but, at least in the communities that I mentioned, there was a public outcry, and I do want to give an opportunity for both sides. Perhaps there are some technical issues here from the side that is against this bill that we need to hear, and legal issues, but on the other side there were masses of people who were insulted by the golden handshakes at a time when nurses were being laid off and so forth, to have these sorts of severances given out and not even have the right to do anything about it or to even know about them.

We may be surprised at the interest out there. At least in my community and in Ottawa and Toronto there would be more public interest. My press release can cover some of that, and if the issue is saving money, I'm willing to compromise.

Mr Patten: I wonder if I could get from the clerk—I believe we are obliged to notify the public, but we have options as to how we do that and to what extent, correct?

Clerk Pro Tem: Yes. Normally we notify the public because it is a public hearing, but there isn't really any requirement to do so.

Mr Patten: Oh, there isn't? I thought there was.

Clerk Pro Tem: I suppose posting internally—

Mr Patten: Now that we don't have the Gazette, freely, for everybody, I guess—

Clerk Pro Tem: But normally there is—the newspapers are often used, but there is an expense involved with newspapers.

Mr Patten: Yes.

Clerk Pro Tem: The parliamentary channel, there's no charge for that. The Internet, there's no charge for that. Also, if we issue a press release, there's no charge there.

Ms Martel: I'm just wondering if I can try and bring this to a close.

The Vice-Chair: We're still on the schedule, are we not?

Ms Martel: May I make a proposal?

The Vice-Chair: Yes.

Ms Martel: I propose, then, that we sit for the public hearings for Bill 53 on March 7, that we have 15 minutes per organization, 10 minutes for an individual, that if the committee doesn't mind, we start at 9 and we start at 1 and get to it sooner, and that—

The Vice-Chair: I'm sure the committee would love to do that.

Ms Martel: —the submissions should be in to the clerk by the Thursday before, which would be February 28, so the clerk could start on Friday, March 1, to schedule, and that if there are more individuals, the subcommittee would have to meet then to decide who would be heard; otherwise we'd just slot people as they come in.

Clerk Pro Tem: And no advertising in the newspapers but instead on the parliamentary channel and the Internet—

Mr Martel: The parliamentary channel, Internet.

Clerk Pro Tem: —and then a news release? Right.

The Vice-Chair: Do we have a consensus on that?

Interjections.

The Vice-Chair: I hear a third, a third, a third as opposed to just slotting people.

Mr Maves: So as they come in—

The Vice-Chair: There are going to be some come in that you won't know which third they belong to. There may be some submitted that you'd know which third they belong to.

Mrs Munro: That's OK.

Clerk Pro Tem: What I can do is, anybody who calls in, I can submit a list to the committee members and then each caucus can provide me with a list and I would schedule from that list.

Mrs Munro: That's fine.

Mr Maves: Do you want to have the privacy commissioner have any extra time? Do you think she should be invited? Should we give the privacy commissioner—

Ms Martel: Twenty minutes?

Mr Maves: —20 minutes or half an hour?

Mr Patten: Give her 20 minutes.

Mrs Bountrogianni: I think that's fair.

Mr Patten: I think she should be invited.

The Vice-Chair: Invite the privacy commissioner?

Clerk Pro Tem: The Ontario privacy commissioner, an invitation for 20 minutes, to lead off.

Mr Maves: So we're going 9 till 12 and 1 until what? We kind of left that open-ended.

The Vice-Chair: Six?

Mr Maves: One till 3?

Mrs Munro: That's fine.

Mr Maves: Fifteen minutes per—

The Vice-Chair: Per group, 10 per individual.

Clerk Pro Tem: And 20 minutes for the privacy commissioner.

Mr Maves: Then, Marie, you get an opening of 10, 15? What do you want?

Mrs Bountrogianni: Ten's fine.

Mr Gill: I suppose what we're doing, then, is adding half an hour to the day, extra?

The Vice-Chair: We're adding an hour in the morning, but—

Mr Gill: And half an hour at lunchtime.

The Vice-Chair: —and half an hour at lunch and not going till 4.

Mr Gill: So we're actually adding half an hour.

The Vice-Chair: Yes.

Mr Patten: So we're reducing an hour.

Mr Gill: No. We're adding in half an hour extra.

Mr Patten: OK.

The Vice-Chair: But there's been the suggestion the privacy commissioner be given an opening after Ms Bountrogianni.

1030

Mr Gill: I think the reason for starting this exercise was not to add in time, was it?

Mr Maves: Nine until noon, 1 until 3, 15 minutes per organization and 10 per individual, opening 10, and the privacy commissioner gets invited and gets 20, on March 7.

The Vice-Chair: That's a compromise, OK?

Ms Martel: Done.

Mrs Bountrogianni: Done.

The Vice-Chair: I have consensus?

Mr Gill: We just added half an hour.

The Vice-Chair: Is that it? Thank you very much.

Clerk Pro Tem: One thing: do you want any kind of summary by the research officer?

The Vice-Chair: Marie, a summary by the research officer of the day's submissions?

Mrs Bountrogianni: Yes, thank you.

The Vice-Chair: Having dealt with item number two, we'll now go along to item number one. It sounds like government accounting to me. That is the motion of Mr Patten. Since there was a fair amount of discussion at our last meeting, I will read the motion as it has been given to each of us by the clerk. Mr Patten moved:

"That the committee recommend that this private after-hours clinic (CROS)"—which is Canadian radiology oncology service—"be considered a pilot project and following an evaluation which would include: the effectiveness in meeting the stated goals of (1) reducing waiting times; and (2) cost-efficiencies. That this be done

prior to any further expansion or addition of private clinics."

Mr Patten: Mr Chair, it's "cost-effectiveness" not "efficiencies."

The Vice-Chair: I'm sorry, I misread it: "cost-effectiveness."

Is that essentially the motion, Mr Patten, that you moved?

Mr Patten: Yes.

The Vice-Chair: Any further discussion?

Ms Martel: I support the motion. I have a larger concern—and I don't know if you want to deal with it within the motion or outside of it—with respect to the documents that we've all received in the last four weeks or so, the two documents from the individuals who say the auditor was wrong, the letter back from the auditor and then a newspaper clipping this morning that appeared as a result of a press conference that was held by Dr McGowan here yesterday morning, Dr McGowan being the head of the private sector clinic.

I have some questions about how we might respond to that, which can be dealt with outside of the motion, although—

The Vice-Chair: Responding to the press conference, you mean?

Ms Martel: No.

The Vice-Chair: And the reports?

Ms Martel: I'm concerned about the reports, and I'm concerned about the fact that clearly what was in the reports is different than the instruction that I believe this committee gave the auditor when he carried out the audit.

The Vice-Chair: Could I suggest that that be brought up as a general discussion or as a point of order after we settle this motion? Is that OK?

Ms Martel: Sure.

The Vice-Chair: Any further discussion on the motion? Are you ready for the vote? Ms Munro, I'm sorry?

Mrs Munro: We aren't going to have any discussion?

The Vice-Chair: You can. I've asked several times.

Mrs Munro: I know. I kept expecting there was going to be some. I'm not used to this, no discussion.

The Vice-Chair: All those in favour? Opposed? The motion is defeated.

Well, here we are. It is now 10:35.

Mr Erik Peters: Chair, may I?

The Vice-Chair: Oh, the Provincial Auditor, yes.

Mr Peters: I'm not sure whether it is permissible at all, but because of the circumstances that arose yesterday, I would like to have the committee's permission to deal with my letter to the Chair and you as a public document. One way of doing that would be to read it into the record. I'm not sure whether you will permit me to do that, because that expresses the concerns that we had. I know it's an unusual request and I know we dealt with the media yesterday—I dealt with the media yesterday on this issue—but I really am concerned about communicating to the media something that I have not had a chance to discuss with this committee.

Mr Maves: Can you table the letter, and can we deal with it when we come back?

Mr Peters: It has been provided to everybody. It's the letter dated February 7.

Mr Maves: Oh, I thought you meant you had one today.

Mr Peters: No, no. I don't have a new one. It is just to make—if I either have permission to act on it if there are any further inquiries or actions taken against my office as a result of this, or the other one is that I could just put it into the statement.

Mrs Munro: I wanted to ask about the nature of these documents that you have responded to and what prompted their publication. Can you give us any information about that?

Mr Peters: I'll be glad to. In fact, that is the very concern that is at the heart of my intention of making this public. What has happened is that without any consultation with my office whatsoever these letters were distributed to the committee, the reports of Professor Elitzur from the Rotman School of Management, and Murray Bryant from the Richard Ivey School of Business. These were sent out without any discussion with our office at all and there was clearly a total misinterpretation of the mandate that was given to me by this committee.

It would be pure speculation as to why Dr McGowan took that step, because clearly in one of the documents the professor identifies him as the person who asked him to prepare this report. So I had to respond because it was public. Normally we would not have had a reaction to this at all. But here we're talking about two professors from very reputable business schools who took it upon themselves to write to this committee and distribute this, not only to the committee, but to the Minister of Health and Long-Term Care and also to the CEO at that time, Graham Scott, of Cancer Care Ontario.

The real concern that we have is that it is just a totally unwarranted attack on my office based on an absolute misunderstanding and misinterpretation of the mandate that this committee gave us. So that's the—

Mrs Munro: I just wanted to understand if—I mean, it's public information where your office is looking at particular things, whether it's within the ministry, whether it's with an agency such as this. Can you recall any other kind of situation which would be similar to this where people had taken it upon themselves to provide the committee with their version?

Mr Peters: No, not offhand, I truly can't. At one stage I remember way back when, when we discussed the oxygen supply to the Ministry of Health, the ministry did accede to the request of the Ontario health and respiratory—OHRSA; I forget what all the letters stand for. They appeared before the committee and explained how they provided the oxygen in Ontario. That had happened. But quite frankly I cannot recall as long as I've been the Provincial Auditor, and my staff who have been there longer than I cannot recall, what I would consider an unprovoked attack on my office and the work of my office without any basis in fact.

Mrs Munro: I appreciate what you're saying in terms of that. What I was trying to figure out was whether or not the interpretation of these individuals to do what they have done in terms of their analysis—is that something that anybody can do? That's I guess what I'm concerned about in terms of understanding the circumstances we have before us now.

1040

Mr Peters: They did something, but they did it in the wrong way. Let me just explain. Yes, they could have taken my report, and where we had the funding formula that was provided to us by the Ministry of Health and by Cancer Care Ontario, as to how they decided to fund this clinic, you can do any interpretation you want. But one of the things that is totally wrong is to assume that is a cost accounting, as they did, as to how the clinic provides the service. The principal concern there is that the clinic is only open to breast and prostate cancer. The Cancer Care Ontario funding funds regional centres, or Cancer Care Ontario centres, that deal with all kinds of cancers. One of the technical aspects of that is that the calibration of radiation equipment, if you deal only with two kinds of cancer, is far easier and leads to greater productivity than if you had to recalibrate for a brain tumour and then for something on the leg etc. So the premise was totally wrong.

What we are ending up with is actually letters to this committee that, first, were not cleared. There was no contact with my office so that we could explain what our mandate was about. Second, there was an interpretation of the data provided in my report which is totally unsupportable. It's absolutely false. It's just plain wrong. The third thing is that we are very careful in clearing the factual content of our report. The factual content of our report was carefully cleared with both Cancer Care Ontario and the Minister of Health.

Of course our mandate, as one of the letters—we were dumbfounded because it reports on a report we never issued. It said there was a report that we had issued on CROS. Even yesterday in the press conference they were saying that it is on our value-for-money audit of the contract given. Again that's not the case. It was on their decisions.

Mr Patten: That's what they would like to believe.

Mr Peters: Yes, there was a lengthy discussion of this committee of whether in fact I should do what these people did, but the committee then decided that we should audit only the policy decision. I'm rather concerned about this. It's really an unwarranted attack, in my mind, not just on my office but on this committee, because it says that its committee essentially gave me the wrong charge. That's one of the other implications from this.

The timing is rather curious. Although it is pretty well an automatic renewal, the anniversary of the contract is on March 3, I believe. That's one other aspect.

There are other aspects that they deal with. For example, the clinic is strictly using equipment and facilities financed and maintained by Cancer Care Ontario. Ad-

mittedly, they are paying \$220 for that, but whether that's enough or not, we don't know.

Mr Maves: I think this is an interesting situation, because the auditor in fact has been audited by somebody. I know you take exception with the way the audit was done and so on. I don't see how you can ever say to members of the public, if they decide in the future to take another one of your audits and run their own numbers on it, "You have to follow a certain protocol. You have to call us first." This is just a unique situation where someone has decided to audit your audit and, as you've just explained, there were some differences that were not highlighted and they audited maybe a different thing than you. I think it's just a unique situation. I wouldn't be too sensitive.

You just explained some of the differences. I'm fine if you want to read your letter into the record. I'd hope that we could adjourn while you read it into the record, but I think that's fair game. I just think it's a unique circumstance. I could see this happening again in the future. I don't know how you ever stop the public if they decide to take exception and do their own audit. You can't possibly regulate that. So I think it's fine if he wants to read the letter into the record.

The Vice-Chair: Just to add to yesterday's events, I should tell you that as Vice-Chair of the committee and in the absence of the Chair, I was requested by Wendy Rinella, who is a vice-president of the Jeffery Group Ltd, to have a meeting with her and Dr McGowan, because they have a desire to appear before the committee. So I met with them, only to advise them that the legislated responsibility of this committee, in my interpretation, was to deal with the Provincial Auditor's report and any special reports, that we weren't a committee that, in my limited experience, held public hearings, and that what they should do is to write to the Chair and copy the clerk and request that they appear before the committee, and then the committee would deal with it.

When they came into my office for the meeting, and they wanted it prior to the discussion of Mr Patten's motion, why, along with them came the two writer-authors of the reports. So I started out by telling them I felt a bit blindsided, because we weren't there to discuss the reports; I had no interest in discussing the reports. They informed me then that there was also going to be this press conference. I said, "I would caution you not to interpret our meeting as any kind of a reflection on those reports one way or the other," and I was pleased that they didn't mention that meeting. They left knowing that they could simply write the Chair, and that would be brought before the committee. So that's for your information.

Ms Martel: I don't know why we wouldn't just take the next step and actually have the auditor look at the cost comparison. There was a discussion about this before. Frankly, I had hoped that was what the original special audit was all about. There is an issue here with respect to whether it's more costly or it's cheaper to have this done in the public system. We know, based on what the auditor said, that there wasn't an effort made by CCO

to have this done in the public system. I think we can all agree that there was ample evidence provided by the auditor to show that this was never a route that was chosen.

It is 100% provincial dollars which are funding this after-hours clinic. I, for one, would really like to know whether or not it would be cheaper to do it in the public system, because if it is, I think that would place a serious onus on Cancer Care Ontario to actually make an effort to see if it could be provided in the public system, an effort that they did not make, which is clear to all of us, when this contract was first signed.

The reason I think that is important is (a) because I'd like to know if there's a differential, but (b) we also know that this contract has a first right of refusal for the private sector clinic, so that if the waits continue and Cancer Care Ontario has to make a decision to increase or open up a second clinic, we know that it's the private clinic that has first right of refusal and could have the first opportunity to operate a second clinic at a second cancer treatment centre.

I just think, one way or the other, no matter what side of this you're on, it would make some sense for this committee to instruct the auditor to do now what probably should have been done in the first case, which is to actually get to the bottom of the costing. Is it more expensive or is it not to do this in a private setting? I would really strongly encourage committee members to reconsider their position on this and to ask the auditor to actually take the next step and do this second investigation of costs. That will clear it up for committee members and it will clear it up for this group and for the public.

The Vice-Chair: You wanted to comment?

1050

Mr Peters: I think I've said my piece, and I think it wouldn't serve a purpose. You have a copy of my letter, and I think to put it in the record is no longer necessary. You gave me the opportunity to say my piece.

The Vice-Chair: Mr Maves, you said you didn't care if the auditor says it isn't necessary, so let's deal with the letter.

Mr Maves: I think in his comments he covered what he wanted to say.

Mr Peters: That's right.

The Vice-Chair: OK.

Mr Maves: I'm content.

The Vice-Chair: That deals with the letter. Ms Martel, you have made a suggestion. Do you want to pursue that any further or shall we move on?

Ms Martel: I would ask the committee to consider it. I don't have a written motion. I move that this committee—I don't know if the word is "direct" or "request"—direct or request that the Provincial Auditor now undertake a value-for-money audit of the cost per case of radiation treatment at CROS and in the public system to determine if there is a differential and what it is.

The Vice-Chair: It has been moved. Is the motion understood? Any discussion?

Mr Maves: Yes. I just want to ask research if they could go back to 1999 and find out now how many times we've brought forward motions to direct the auditor to do special audits. We've had this debate before; the number continues to mount. I think we were up to about five last time. This might be six. I would like that information. Thanks.

The Vice-Chair: Further discussion?

Mrs Munro: Yes. This is directed more at the auditor than the members. You mentioned in your comments the complexity of assessing cost, and you raised the issue of the particular after-hours clinic that was, I presume, mandated to specialize in two particular areas. You mentioned something about the efficiencies that come with that kind of specialization. Are there any of the public sector providers of service that have done that?

Mr Peters: We could take a look at it. What we know actually was not done is that the funding was really done on an average per-patient basis, what we see as the funding. The difficulty in cost accounting that would be at stake here is to sort out, of the Cancer Care Ontario facilities, how much they actually spent on those two kinds of cancers, as opposed to what else they do in addition to that. That certainly would be a very difficult challenge.

From our look-see, we have the impression that systems are not in place to actually measure and do this. You almost need time and motion studies, set-up time for radiation equipment, for example, for different procedures etc, so it would be quite a challenge to do this now, because we may have to develop many of the numbers ourselves, which, of course, from an audit perspective is both time-consuming and really in a sense not appropriate, because we would end up auditing our own work.

There is a temptation, if this were to be given as our assignment, that in the motion that has just been defeated—I agree it has been defeated—there is a request for an evaluation which includes the cost-effectiveness. If it were coupled with that—in other words, a request of Cancer Care Ontario to do an evaluation of its own cost-effectiveness, which would mean an analysis of these costs, and then to carry forward what has happened.

There are two questions, and I just want to speak to that from the perspective that you, Mr Maves, just brought to the debate. It's not just my resources; we would also have to have some concern about the resources of Cancer Care Ontario in that it would be a far more elaborate costing system of the treatment of patients than we have had before. The benefit of that would be that we get more of a handle on how to evaluate, budget and cost clinical expenditures and the needs served in other areas. Although in the hospital area, I can tell you that it is already done. There are enormous, tremendously detailed costing studies in the United States which I know would probably be available to us in terms of costing, because, as you know, under their more privately oriented system—I don't know whether any of you have had the misfortune of being in a hospital in the

United States, but you are virtually charged for every Band-Aid, the bandage and the time it took to put it on etc. So I'm saying it could be done. It would be time-consuming for both of us.

To come back with one comment on the transaction we were asked to examine, there is no dispute by my office and a full agreement by the people who sent you the studies that the primary objective of the after-hours clinic, which was to stem the flow of patients who went to the United States, is cost-beneficial for the taxpayer. There's no doubt about that. The challenge is, is it also cost-effective for other patients in the system in Canada who are treated by Cancer Care Ontario in Canada? So it's only that window that we would really be looking at, because grosso modo we're satisfied that treating them at Sunnybrook is cheaper than in Buffalo.

So it is really a question that is worth considering, whether for this particular study we would do this evaluation. There is, of course, the other possibility, and I don't see anything yet in the literature that there is an intention to expand the after-hours clinic to all cancers, to provide comparative service after hours to what we do at Cancer Care Ontario.

You can see that I'm a little bit ambivalent, because it would require a tremendous amount of work, research and resources, both of Cancer Care Ontario and of my office, to come to grips with this particular situation. To that extent, I almost ask the committee to ignore these studies that were prepared by the two professors, because that is the point they're trying to make, that it's also cheaper to do all cancers in an after-hours clinic. If that becomes an issue, I would be quite happy and willing to have my office step in at your request and look for the costing of the two.

My concern is that at this moment it is not an issue. It has been brought up by these two people. I think we have put it reasonably to rest, at least in the current structure that we know of. The information is just not available about whether or not it would be more cost-effective to treat the same cancers in a private sector, after-hours clinic than it is at Cancer Care Ontario.

The Vice-Chair: Ms Munro, you had the floor.

Mrs Munro: That's fine.

Ms Martel: If I might, then, how can they make the claim that it is cheaper, which is the claim that was certainly being made by both?

Mr Peters: Yes, because they totally ignored a fundamental concept of cost accounting, which is service mix. It's almost like you compare a car dealer that sells only Jeeps with a dealer that sells the full range of products. You compare the Jeeps with the average of all the others. That's why we believe that their studies are fundamentally flawed, because they didn't take that into consideration at all. The service mix, the product mix was not taken into account in either study. In fact, the Ivey study, which deals with productivity, makes a bland statement without providing any reference points to Cancer Care Ontario's efficiency because they were again comparing the productivity of a centre that deals only with two

cancers with the productivity of another organization and then making claims. This is why I think in that regard they are worth ignoring.

1100

Ms Martel: Just to finish up, I have two outstanding concerns. One is that it was clear from the report and it's clear from CCO's own work that the waiting times have not diminished. We are not sending patients to the States any more, but the fact remains that in the current cancer system in this province the waiting times are almost exactly the same as they were two years ago, in 1999, when you did your audit of CCO. So there has been no improvement in that regard. I think that situation is going to get worse and is going to force CCO to look at other alternatives to deal with the waiting lists.

The only alternative, unless you send people to the States again, is to open up another after-hours clinic. It seems to me that before the government does that, the government would want to know from CCO that it is more cost-effective to have this done by a private clinic versus in the current cancer system, and the only way you're going to get to that is to know what the costing is. We know that CCO did not make any effort whatsoever to have this done in the public system. Worse still, the contract very clearly says that if CCO looks to have another clinic open up after hours, automatically it would go to CROS to operate, which is in the private sector.

I think it's important, from the perspective of knowing that the waiting lists aren't getting shorter—they're probably getting longer, and CCO at some point is going to have to make a choice about opening up a second clinic—that the best information with respect to costs should be provided. If it's cheaper to do it in the public system, then it would place a particular onus on CCO next time around to actually have to look at the alternative of doing it in the public system. To go on without knowing what those costs are, to me, places no obligation or responsibility on them to get the best cost for cancer care in the system, which is what I hope we're trying to do, because it may in the long run allow us to see more patients, allow us to actually treat more patients.

Mr Peters: My recollection of the hearings we had with Cancer Care Ontario at the time was that they described to the committee essentially two bottlenecks that they had. One was a people bottleneck, and one was a resource-equipment or facilities bottleneck. I'm wondering if it might not be worthwhile to have two approaches. I don't recall exactly the recommendations made by the committee in this regard offhand. The first step is really, what steps can Cancer Care Ontario take to maximize its existing resources? In other words, what we found, for example, was that equipment is maintained during patient hours when they should be serving patients. They could maintain the equipment at night, so that they have up-to-date equipment that is efficient in delivering the services, and the preparatory work can be done in a better way so they have more radiologists on staff who can actually deal with the waiting time.

So the first step would really be to maximize resources. What other steps have to be taken by the government at large? What do we do in order to create more radiologists, if you will, or more cancer specialists who can deal with the waiting list?

From my strictly advisory perspective, to cost account would be a little bit further down on this. I think the primary objective would be to make Cancer Care Ontario itself more efficient and cost-effective in the way it delivers the service, and thereby reduce the waiting times.

That was the gist of my report of December 13. We really were saying, "Look, Cancer Care Ontario, what you did not do was evaluate what you can do to provide these services before you go into a private sector after-hours clinic." That evaluation simply had not taken place.

My advice to you would be to possibly pass a recommendation to Cancer Care Ontario to take all the steps necessary to maximize and increase its own resources to deal with the waiting time and then decide whether going to a private sector clinic is the right way to go. And it may be. For this one, as I said, the primary purpose was met. The secondary purpose of expanding private sector clinics to all treatments is another question, and that step, in my view, should not be taken until Cancer Care Ontario comes to grips with what it can do.

Mr Patten: Relating to this recommendation, I support it, but I want to speak to the response from the committee, which is a separate issue. So I think we should deal with your recommendation first.

The Vice-Chair: Any further discussion on the motion? Question?

Mr Maves: I'll give you a suggestion. I don't think the auditor has taken exception with the qualifications or the background of the people who did any of this work, this study. He's taken exception with some of the factors that weren't held for in the study and the fact that they criticize his office for doing something that actually wasn't what he was doing. He was auditing something different. If the private sector is willing to do the study—Ramy Elitzur is the associate professor of accounting and until recently the executive director of MBA programs at Rotman, and Murray Bryant is a professor and MBA director at the Ivey school—why don't you just send them a note about the auditor's concerns with their report and have them rerun their numbers at their expense and let them send us back a letter on that? If they want to be involved, then let them do that.

I think we're making a tempest in a teapot. The auditor has put his concerns on the record. We've noted them. We've got his letter with his concerns about their report. I think we should leave it at that. Otherwise, let's let the private sector do more studies at their expense and on their time instead of the auditor, who has a full audit agenda.

The Vice-Chair: I'm not exactly sure what that has to do with the motion, but—

Mr Peters: If I may comment on that, I do have concerns about having two people do that whose work

that they presented to the committee was that faulty. My confidence in that is fairly low.

The second part of my comments is to the point that that would require giving these people access to the records of Cancer Care Ontario itself. As I pointed out before when my office was confronted with this, I don't know whether Cancer Care Ontario even keeps these kinds of records at the moment. I cannot answer that question. Whether one wants to send people from outside and give them carte blanche to examine the records of a government agency does concern me somewhat in this regard.

On the last point, from my perspective a letter from this committee would not be necessary. I think the record speaks for itself. That is my view. If you would like to invite people of that calibre to take a look at it, that's certainly the purview of the committee, but I am not persuaded of their ability to do a good job.

The Vice-Chair: More to the point, the motion was to have the auditor do this, not a third party.

Are you ready for the question?

Ms Martel: A recorded vote, please.

Ayes

Martel, Patten.

Nays

Gill, Maves, Mushinski.

The Vice-Chair: The motion is defeated.

Mr Patten: In light of what has happened, the fact is that as a result of the initiative of these two people who sent directly to us—and that's fair enough, because anybody could communicate to us what they like. The fact is that the press coverage is "Private Clinic Better Deal, Doctors Claim."

1110

Ms Mushinski: As opposed to "Cancer Care Questions Auditor's Numbers"?

Mr Patten: No. So out there—yes, that's right. There is some doubt now and challenge, I suggest, to the auditor and to this committee. While it is unusual, I think we should respond, quite frankly. It need not be a big deal but I think, in light of the response of the auditor to the committee, we should have a response back to these people and that we should share that publicly. It should come from the Chair, after discussion here as to the content. The content should be, in my opinion, an acknowledgement of the original purpose, which no one disputes, and that's the focus, because that was the intent.

But by raising and suggesting the other analysis, and that is that they can do it better and cheaper on an on-going basis, I think we should take on or at least identify that we are not, or at least I don't feel—that that is not satisfactory because (1) that is not what the auditor was asked to do and (2) to pursue that, we don't see that the

data, or what they've put forward, is, I don't know, credible.

Mr Peters: Valid.

Mr Patten: Valid. We may further say, in light of this, we would recommend that Cancer Care Ontario begin to gather or record the kind of information that will enable it to assess that option in the future. Something along those lines, the spirit of what I'm suggesting. I wouldn't want to just leave it, frankly, just as it is.

Mrs Munro: Given your comments about the meeting you had yesterday and your advice to that group about the approach they should take in terms of writing to us, I think that's the appropriate point at which we then can consider the kind of response we want to make in view of the comments that Mr Patten has made. I think that would be the sequence that I would suggest.

The Vice-Chair: Thank you, Mrs Munro. In light of my meeting with them yesterday, I think that's appropriate. They advised me that they have written to the Chair to ask to appear before the committee. I haven't seen that letter. I told them the Chair would be back in a few days and it would be dealt with. So if that's OK, that may be the appropriate way to do it.

Mr Patten: Just to confirm, the committee will have a chance to respond as to the letter to the Chair. Obviously the Chair will come back here and say, "All right, here's—" and then we'll have a chance to develop our response.

The Vice-Chair: I'll bring the Chair up to date, and I expect that's what he will do.

It is now 11:15. The next item on the agenda, if there is no further business that you'd like to bring up, would

be the closed session regarding item number 3, consideration of the committee's draft report, Project to Automate the Land Registration System (Polaris) Draft No 2.

Is it your pleasure that we begin to deal with that now? No. I hear a no.

Mr Maves: Can we take our hour break and come back and begin with these reports at 12:15 or 12:30?

The Vice-Chair: What is it with this Mr Maves that he wants to change all these schedules? Why don't you guys sort it out and then tell us what you'd like to do. The Chair is suggesting that we move into closed session and deal with item number 3.

Ms Mushinski: I'd be willing to do that if we can get out earlier this afternoon.

Mr Gill: As long as we get out at 12. I've got a luncheon appointment.

The Vice-Chair: We'll break at 12 and come back at 1:30 or 1:00, whatever your choice is. Some may have made some arrangements. Move into closed session?

Mr Gill: Sure.

The Vice-Chair: I will move into closed session unless somebody comes up and chokes me.

Mrs Munro: Can we just have a little confab here? Five minutes?

The Vice-Chair: You can have five minutes to caucus. We won't adjourn; we will recess for five minutes.

The committee recessed from 1115 to 1117.

Interjection.

The Vice-Chair: We will recess till 1 o'clock.

The committee continued in closed session at 1117.

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Second Session, 37th Parliament

Assemblée législative de l'Ontario

Deuxième session, 37^e législature

Official Report of Debates (Hansard)

Wednesday 20 February 2002

Journal des débats (Hansard)

Mercredi 20 février 2002

Standing committee on public accounts

Ethics and Transparency
in Public Matters Act, 2001

Comité permanent des comptes publics

Loi de 2001 sur l'éthique
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LEGISLATIVE ASSEMBLY OF ONTARIO

ASSEMBLÉE LÉGISLATIVE DE L'ONTARIO

STANDING COMMITTEE ON
PUBLIC ACCOUNTSCOMITÉ PERMANENT DES
COMPTES PUBLICS

Wednesday 20 February 2002

Mercredi 20 février 2002

*The committee met at 1008 in committee room 1.*ETHICS AND TRANSPARENCY
IN PUBLIC MATTERS ACT, 2001LOI DE 2001 SUR L'ÉTHIQUE
ET LA TRANSPARENCE DES QUESTIONS
D'INTÉRÊT PUBLIC

Consideration of Bill 95, An Act to require open meetings and more stringent conflict rules for provincial and municipal boards, commissions and other public bodies / Projet de loi 95, Loi exigeant des réunions publiques et des règles plus strictes de règlement de conflit pour les commissions et conseils provinciaux et municipaux ainsi que les autres organismes publics.

The Vice-Chair (Mr Bruce Crozier): I call the meeting to order. The committee will be conducting clause-by-clause consideration of Bill 95, An Act to require open meetings and more stringent conflict rules for provincial and municipal boards, commissions and other public bodies.

Ms Di Cocco, do you want to begin?

Ms Caroline Di Cocco (Sarnia-Lambton): Yes. The procedure is that we go through the amendments, I presume?

The Vice-Chair: We go through every clause, essentially, and pass each clause and/or clauses as amended.

Ms Di Cocco: Is there any specific order?

The Vice-Chair: Yes. You have a package. If you don't, you can have mine.

Ms Di Cocco: Is it this one?

The Vice-Chair: Does it have the numbers at the top?

Ms Di Cocco: Yes, it's got numbers at the top.

The Vice-Chair: Normally, you may have some general comments, if you choose, and then we will go to clause-by-clause.

Ms Di Cocco: All right. The amendments that came to us today have come because of a number of discussions and also the public hearings that took place. I took some suggestions that I believe would make the bill better. Just to give you an overview of what the amendments hopefully will do, they strengthen and also simplify the process of open meetings.

For the sake of the committee members, one of the important things I've done is take away those two bodies, particular agricultural bodies, marketing boards and I believe self-regulatory boards, professional boards,

which I don't believe belong under my bill. The intent of my bill was not to put these bodies in. They are supposed to be public bodies that expend public dollars. That's the intent.

I also want to say that it's important that whatever decision is made in a private—if you want, in camera—meeting, must be reported in public. That's also one of the amendments I put in, to make sure the minutes also record what decisions were made.

Probably the other large amendment that I felt would improve the bill was to substitute the Attorney General. I believe that the Information and Privacy Commissioner should be the person the public can go to to request an investigation or at least to look into whether a public body acted inappropriately.

Again, I do believe the bill is much improved. I think it's needed.

I just want to say that from across the province what we find is that there is no duplication. I double-checked that. There are no fines on representatives on public bodies or boards who act inappropriately, and I think we've heard testimony of that.

Basically these motions are hopefully to make this bill better. I certainly hope and am sure the committee will see fit to report on it.

The Vice-Chair: Thank you, Ms Di Cocco. If there are no other comments, we'll move to section 1.

Mr Bart Maves (Niagara Falls): I have a further comment, if the Chair would indulge.

The Vice-Chair: Yes, Mr Maves.

Mr Maves: In the hearings we had, there were a lot of organizations that came in asking to be exempted. During the hearings you said a couple of times that you were intending to exempt that organization or some other organization. Could you give us a quick synopsis of those that were originally in it that you have now pulled out?

Ms Di Cocco: Certainly. It's the local farm product marketing boards. They're in item 8. I've put in a new schedule in part II. Do you want to know the reason they were removed and what the rationale was?

Marketing boards, by nature, discuss setting prices. Also, the members on marketing boards are all farmers, so they would be impacted directly by the decisions made by that marketing board. There would be a tremendous conflict of interest in that, so they are out of the bill. They did request that they not be put in. I felt that according to their statutes, they did not belong under this

bill. The other one was the advisory boards appointed by conservation authorities.

Again, a number of them were caught in this net unnecessarily: colleges of health professionals; and there is a group called fence viewers—there is no reason for them to be caught in this; the marketing board under the Milk Act; and the other one was the medical advisory committees. It's the boards on the hospitals that are accountable but the advisory committees are only to advise the boards, so the decisions are always made at the board level. That's why we removed the advisory committees.

I sent to the members ahead of time an overview of all the bodies that were taken out. If you want, I can give you a copy of that.

The Vice-Chair: By the same token, Ms Di Cocco, the bodies that are included are in the schedule at the end of the act.

Ms Di Cocco: Yes.

Mr Maves: Right. However, the amendment adjusts that schedule. Chair, I was just trying to get some of the thinking behind Ms Di Cocco's inclusion or exclusion of different boards and bodies from the act before we got into actual clause-by-clause.

Ms Di Cocco: If I can give you the general gist of it—I don't know if legislative counsel wants to speak to it, because I spoke to him at length about what the intent was in the bill, which is that public bodies expending public dollars that impact the general public, those boards should be conducting, in my view, according to this bill, open meetings. That's at the local level and at the provincial level.

Mr Maves: Right.

Mrs Julia Munro (York North): If I could just ask a question, given that rationale, how would a conservation authority not fall into the category? You've taken them out, and I just wondered, by what you just said.

Ms Di Cocco: It's advisory boards appointed by the conservation authority, not the conservation authority. The conservation authority is in there, it's in the package, if you take a look at the amended schedule, at the very top: "A conservation authority established by or under the Conservation Authorities Act." But it's the advisory boards under them.

Mrs Munro: OK.

The Vice-Chair: If you have the letter from Ms Di Cocco, it lists those that are being excluded, and we're getting copies printed of it, if you don't have it.

Ms Shelley Martel (Nickel Belt): You need to work with page 7 of the bill and work against the Liberal motion, because in the schedule part I remains, on page 7 of the bill. It's part II that's being amended and the amended part II appears as a Liberal motion. So you need both to see what is going to be included, if that helps.

Ms Di Cocco: Thank you.

The Vice-Chair: Any further discussion before we get into the meat of this?

Mr Morley Kells (Etobicoke-Lakeshore): I must apologize. I have not been at this committee before.

The Vice-Chair: Mr Kells, you never have to apologize.

Mr Kells: I'm a little confused that we're going to head right into amendments, and some of the things that were discussed back at the public hearings level are still concerns with the government. I just wonder if we should maybe just be talking about those in general terms first before we talk amendments.

My ministry's position hasn't changed. As much as we appreciate the private member's exercise and we appreciate the personal problems you have incurred in your area, we still don't see it as anything we need more than what we've been able to do as a government. So our position hasn't changed.

Mr Richard Patten (Ottawa Centre): What ministry is that, Morley?

Mr Kells: Municipal Affairs.

Ms Di Cocco: First of all, there are two items, Mr Kells. One is that it isn't a matter of my personal—it's been an experience. But there were suggestions by Justice Killeen at an inquiry, and under the Municipal Act there is nowhere—I think the basic argument from the government is that this somehow duplicated what's already there. It doesn't duplicate it; there is nowhere that I could find where there's a penalty imposed for municipal councils conducting their affairs behind closed doors. We even had testimony from a number of lawyers who went all the way to the Supreme Court, and in the end there is no penalty. That's the difference, that the individual councillors—the spirit of the act is the same, but it's the imposition of the fine which gives probably a stronger consequence to individual board members, and also procedurally, so that they have to make sure they explain why they're going in camera, and if they go in camera inadvertently or when they're not supposed to and they're found to be so, they will have a fine. There's nothing under the Municipal Act that provides that, and that is the fundamental difference, if you want.

Mr Kells: I hear you. If I may, I mentioned "personal" because I find private members' bills to be personal.

1020

Ms Di Cocco: Yes, I understand, but what I'm trying to say is this comes from a broader base. This was a judicial inquiry, by the way, that set a precedent. The city of Toronto has voted for an inquiry, and one of the rationales is because what the city of Sarnia had done set a precedent at the Supreme Court. The Supreme Court gave authority or gave the rationale why municipalities should conduct inquiries because of this kind of thing.

Mr Kells: Let me try and answer back, if I may. First of all, working backwards, I don't think there should necessarily be any comparison or analogy made to the city of Toronto. If their members didn't understand what they were voting on, that's nothing to do with secrecy, that's to do with a lack of information or lack of comprehension. The point from the ministry's point of view is we're well aware of the punitive proposition you introduce in the bill. That's exactly the point. We don't feel that's needed or required, and that's precisely our

position. Maybe there are elements of duplication, maybe there are elements of confusion when you say the stricter will prevail. I'm not too sure anybody knows how, without going to court for a decision, we interpret "stricter." There are many loose ends. I make no apology for this. The government just does not see it is something that we should accept and pass, from our point of view, to make it legislation for the province. I want to get that right out in front before we get into your amendments.

Ms Di Cocco: I understand. It takes a lot of courage. The United States has more stringent rules than this when it comes to an open meetings act. You can take a look at Michigan state since the late 1960s, early 1970s. They've had it in place. You can see by people who cover and who compare. Comparatively speaking, it does lend itself to a stronger element of accountability. Yes, it takes some courage to do this.

I know that the Association of Municipalities of Ontario doesn't like this bill. I know that. But I believe that it's about better government. I really believe that. I regret that you don't agree with that, because I believe that if you take a look at the evidence over the last 10 years even the last few months, as to these kinds of areas that have been—let's put it this way: municipalities or other public bodies have conducted themselves, and all they're going to get is a slap on the wrist if they don't abide by the open meeting, if you want to call it regulatory, or whatever.

Mr Kells: In all due respect, I don't believe, then, that a \$1,000 fine carries—I don't know what category and description it falls into. If that's your main point, I don't think that would be enough damage personally to members of council or whomever you are describing here.

I regret that you regret that we don't agree with you, but that's part of the democratic process. As I just said, I wanted to get it out front. We don't mind debating the amendments. I can't speak for my fellow committee members, but I'm not sure that the argument about the amendments or any debate on the amendments will carry much weight if we as a government do not plan to bring your bill on anyway. That's about as clear as I can make it.

Mr Patten: So this is the government position.

Mr Kells: That's what I've been trying to say here for five or 10 minutes.

Ms Martel: I think I'm going to intervene. I really regret that the government has just laid down its position on behalf of its members. We are dealing with a private member's bill, Morley. Come on.

Mr Kells: I know. I realize that.

Ms Martel: I would have hoped that the government members didn't come in here this morning being bound by the position you've just laid on them. So we know how the rest of the morning is going to go.

Mr Kells: I said that. I very clearly said I can't speak for the—I'm speaking for the ministry position.

Ms Martel: But, "The government position is...." That's exactly what you said, "The government position is...."

Mr Kells: That's OK, because it's the ministry position.

Ms Martel: So now we know how the rest of the morning is going to go, which is that all these amendments are going to be defeated. In light of that, let me say the following. First of all, I think it's a ridiculous argument to come in here and say that we're not going to support it because some of these provisions are covered under the Municipal Act. The Municipal Act defines a very narrow set of interests: municipalities and municipal boards. This bill is much broader, and the people who came before this committee represented a much broader set of interests. There were people who came because they were very upset about school board meetings and school board practices, about what was happening with hospital boards and with a number of other bodies. So to come here with a rationale that says, "We believe these provisions are covered under the Municipal Act," is just ridiculous.

The point of the matter and the point of the bill is to deal with a broad range of public bodies from the hearings that seem to routinely decide that they should not have meetings held in the open, that they should not disclose what should be public information, to the public, and that, as we saw through the hearings, do whatever they can to block access and make it impossible for members of the public who are concerned about things to get any information about that. I think the members who were here for the hearings heard that loud and clear.

Second, I heard Mr Kells say he doesn't agree with the punitive measures. On the one hand, he doesn't agree with punitive measures because he says he thinks that perhaps people at meetings are just confused when they block access, and then on the other hand he said, "Well, \$1,000 isn't tough enough." Well, then come forward with an amendment and make it tougher. But the fact of the matter is that those of us who were at the hearings—

Mr Kells: You can wedge me any way you want, but don't put words in my mouth.

Ms Martel: I listened to you, Mr Kells.

The Vice-Chair: Mr Kells, would you quieten down, please?

Ms Martel: Those of us who were at the hearing—

Mr Kells: I have a right to a point of order here.

Ms Martel: No, I listened to you speak and now I hope that you will give me the same opportunity.

Mr Kells: Don't interpret what I said differently from what I said.

The Vice-Chair: Mr Kells, it would just be nice—

Mr Kells: OK.

Ms Martel: I think the record will show—the fact is that it was very clear from the presentation that regularly, routinely school boards, hospital boards and municipalities were making every effort to block information. It wasn't a question of those boards not understanding the rules and not understanding the circumstances under which they had to release information. Clearly they were making very deliberate attempts not to release information even when lawyers had been hired to try and get the

release of the same. So it has nothing to do with people not understanding the rules and not understanding when information should be released. On the contrary, there are deliberate attempts being made to block that.

Second, if the government doesn't think that the fine is high enough to force people to do the right thing, then the government should bring forward an amendment to increase the fine. I gather that Ms Di Cocco will already move amendments here this morning to increase that to \$2,500. If the government doesn't think that's high enough to get people to comply, then bring forward an amendment that will finally force people to do what they should do, which is disclose information to the public when it is required.

Third, I think there is no reason for the government and the government members not to support this bill. The fact of the matter is, we have public bodies meeting every day that make important decisions about the spending of public funds that affect many interests in the public. We, as MPPs, should be doing whatever we can to ensure that those members of the public can get reasonable, appropriate, easy, timely access to information about important decisions regarding public money when they need it and when they want it. We should not be putting up really silly excuses as to why we can't do that. I would encourage the other government members who are here to support this bill. Thank you, Mr Chair.

The Vice-Chair: Is there any further discussion?

Mr Maves: I don't know if there is some other part in the process where we could, instead of having the one-day hearings and then going directly into clause-by-clause, deal with some of the concerns of the bill that were brought forward by people during committee hearings. The Ontario Hospital Association, for example, was very concerned about the bill. Ms Di Cocco has talked about some of the people she exempted from the bill who also said they had concerns about the bill. Not only, I think as Mr Kells believes, the Municipal Act—by the way, we have a new Municipal Act and I don't know how any of the changes within the new Municipal Act are going to interact with this bill. We have a privacy act that's been introduced and it's coming forward. I don't know how this bill is going to interact with that.

There are within the Ministry of Health several acts and I'm not confident about the interaction between this bill and those acts: the Ministry of Health Appeal and Review Boards Act, the Regulated Health Professions Act—which I think we've had a bit of a discussion on—the Health Protection and Promotion Act, which is with regard to boards of health, and the Public Hospitals Act, regarding medical advisory committees. Even the Municipal Act has some sections with regard to boards of health. There were several concerns brought forward in public hearings. I think there are stakeholders throughout the system that would be picked up by this bill that had a great deal of concern about how they're being picked up.

1030

In fairness to Ms Di Cocco, I don't know if we've had the opportunity to really have a fulsome discussion about

all of those concerns that were brought forward and we're moving into clause-by-clause on a bill. If we're not comfortable supporting the bill after having heard all of those concerns, not really comfortable with how the bill is truly going to impact on those concerns, it makes it difficult for us as private members or as members of the government side to then come in here and begin to vote on a clause-by-clause basis on the bill.

Ms Di Cocco: If the government members have come in here today with the intent that they're going to find a reason not to support this bill about accountability, there's nothing I can do except argue that the new Municipal Act has actually made the rules worse, because they have now included the disposition of land to be done in camera. That's what they've added under the Municipal Act. Instead of making it more transparent, they've added that extra section to it. That means the process used in municipalities when you're disposing of land, which you now do through public tender, has gone out the window now under the new Municipal Act. I can tell you because I checked the new Municipal Act immediately, trying to see whether or not there was maybe a more transparent approach to doing public business.

When it comes to hospitals, of course the hospitals don't want to be under this bill. Right now, they're not under the purview of the auditor, they're not under the purview of the privacy commissioner; they're not under the purview of accountability. They're dealt with as a private entity. That's a fact. That hasn't changed. This bill dramatically changes that and makes sure it's not just under their own magnanimous approach whether or not they're going to have public meetings but that those meetings, which are going to impact their communities, are held in public. Right now, they don't have to do it anywhere across the province. That's a fact.

The other issue, about how it deals with privacy—I had meetings at length with the privacy commissioner's representatives before I did this bill. I did my homework before I drafted this bill. I spoke very strongly to the privacy commissioner and to the representative dealing with this, because I certainly don't want to step on anyone's toes; neither do I want to duplicate. That's counterproductive.

When it comes to real accountability—I thought the government was interested in accountability—real accountability is about transparency and decision-making by major public bodies, including school boards, hospital boards and municipal councils. If you do not have a very specific regulatory framework from which they conduct their business—and you can find excuses not to support this bill based on your not having enough information, but if you take a look at the records, if you take a look at the Hansard, there was some compelling evidence brought forth to this committee regarding the various boards and how inaccessible the information was and it was only some time after the fact and after it impacted on communities. I don't think that's a good way to do government.

This bill is certainly not the panacea, not the answer to it all, but it's a good step in showing goodwill by us as

individual legislators to bring about really good change. That's what this is about, good change, about accountability. I went through every single Hansard. We discussed everything that was brought forward, the suggestions that were brought forward and the concerns. I tried to address them, and when I saw that my rationale for this bill was going to be compromised, and as I said, it would be if I exempted the hospital boards from it or if I exempted the municipal councils from it—I don't think it would change fundamentally the concept of this bill, and I certainly hope that this committee doesn't want to do that. I understand if there are concerns, but I think the concerns are fabricated; it's selective.

We can find reasons not to support anything; that's part and parcel of this process. But I certainly hope this committee understands the intent and the care with which this bill was brought forward, because it's much needed in this province. Other jurisdictions have done it and have had great success. Again, hopefully I addressed the areas of the new Municipal Act, the hospital boards and also the privacy commissioner, because I have touched bases with all of them and the rationale why they are in this bill and why the privacy commissioner is also the body that's going to deal with this.

Mr Maves: I appreciate the lecture. Mr Kells has already talked about some of his concerns, some of his ministry's concerns and some of the municipalities' concerns, and I talked about some of the concerns from the Ministry of Health and the Ontario Hospital Association. In more general terms, I can say that there are general concerns with different parts of the bill, and you can go through them. Because I have general concerns, it would be difficult for me to support these individual sections and then the bill, obviously, in its entirety.

In fairness to Ms Di Cocco, I'm wondering if we can put some of these questions on the record. Instead of having the clause-by-clause now, maybe she can respond to some of the concerns we have about the bill. For example, definitions in the very first paragraph—

The Vice-Chair: The appropriate way to do it—Mr Maves, excuse me—when you start to say that you have sections you have concerns with, is to discuss them by section.

Mr Maves: Right, but if we don't feel there's the ability to get a fulsome answer on that, and then once we hear the answer, say to others who have perhaps brought the concern to our attention, "Well, here are the comments on this. Do you feel that's sufficient?" then it's difficult for me to support it.

The Vice-Chair: In other words, you want to hear from others before the committee again?

Mr Maves: I may want to put some questions on the record and let Ms Di Cocco respond to those questions in due time and then let myself get comfortable with her responses so that I get a comfort zone to deal with the bill.

The Vice-Chair: In due time—you mean not today?

Mr Maves: It would be difficult for me to do all of that today.

The Vice-Chair: I'm simply clarifying: not today. I'll get this absolutely straight with the clerk, but you have the opportunity to move that clause-by-clause be deferred; that is, beyond today.

It should be to a specific point in time, the next meeting, something like that. I hesitate to tell you what to do. I will say that the Chair wants every opportunity for any business that comes before it to be thoroughly discussed and considered. It would take unanimous consent to defer the review of the various sections.

Mrs Munro: Could we have a recess?

The Vice-Chair: Yes, you can have a recess of up to 20 minutes. Do you need any specific length of time? How much time do you need?

Mrs Munro: Can we do 20 minutes?

The Vice-Chair: This committee is recessed for 20 minutes.

The committee recessed from 1040 to 1100.

The Vice-Chair: We'll call the committee to order. We were, at the point of recess, having a general discussion about the bill under section 1. Is there any further discussion or are we ready to proceed?

Mr Maves: We're ready to proceed to clause-by-clause.

Ms Di Cocco: With all of these areas of concern, I don't know why none of the members of the government contacted me. I did try to send out information ahead of time, even ahead of the committee's time, to see if there was any input, amendments or discussion on any of these matters for clarification, because I certainly would have been more than glad to meet with them to discuss it, but that didn't transpire. Nonetheless, I understand that if there are areas of discussion or concern that they want to have addressed, I certainly want to be able to provide that opportunity. I'm more than willing to have this dealt with at another point in time, even when the committee meets at the beginning of the legislative session. I am amenable to that and make myself available to any kinds of concerns the government members may have on this bill.

The Vice-Chair: The indication is we're ready to proceed with clause-by-clause.

Section 1, there are no amendments, correct? Section 2, there are no amendments.

Mr Maves: Can we have discussion on this section before we vote on it?

The Vice-Chair: All right, let's deal with it section by section. Section 1?

Mr Maves: Some of my concerns with regard to section 1 are that, right off the bat, there's no definition of "meeting." Typically, a bill would give definitions of terms contained in the title of the bill, if for no other reason than to prevent persons from taking liberties with a literal interpretation of the bill. So that's a concern. There's no definition of "decision." According to the bill, decisions would have to be documented and minuted, but there's no guide at all as to what constitutes a decision. There's no definition for "open" or "closed" meetings, so there are no parameters or minimum requirements for a meeting to be considered open or closed. There's also no

definition of "conflict of interest," so it would be difficult for a person to ascertain whether they are in conflict without a comprehensive definition.

Finally, with regard to the schedules which this section talks to, I personally am not comfortable. I know Ms Di Cocco heard from some of the groups, agencies and boards that were in the schedule originally about their concerns and pulled them out. I don't think she's heard from everyone who is included in the bill and I don't know that she could be comfortable that they don't have similar difficulties with the bill that might lead her to pull them out. So for all of those reasons, I'm going to have a great deal of difficulty supporting this section.

Ms Di Cocco: When it comes to the specific definitions, a number of the public bodies already have their common procedures of what their meetings are and what they entail, most of which, by the way, are about a quorum, a sufficient number of members of a public body, and that a meeting is constituted when there is a quorum in place. That is, I think, something that is a precedent. It's something that has been there in the past.

If that is something Mr Maves believes is important to clarify at the outset, I would like to see any regulatory or public body that does not have what constitutes a meeting for that group. It would be very unlikely that that's the case. Nonetheless, it's an amendment. If you did have that concern, I wish you had brought it forward, if that is the case.

I believe some of the others are nitpicking. It's trying to find a reason and, in my view, an excuse to vote against the clause, rather than give constructive input that we've had enough time to be able to provide. There's been enough time in this committee to provide amendments to the motions if there was any intent to deal with the concerns in a credible way, in my view.

Mr Patten: To address Mr Maves's comment, the incorporation of any body—and we're not talking about a pickup team on the street here, we're talking about hospitals and school boards. We're talking about public bodies that expend public money in the interests of the public, and they are incorporated. In order to be incorporated, that means at some point they had to apply to the province to qualify to be incorporated, in the health field, the education field or what have you. The requirements of that address what Mr Maves is concerned about. They could not be an incorporated body without the requirements of incorporation and the bylaws therein, which cover the very issues he's talking about. So this bill doesn't go back into that to redefine all those requirements. It makes the assumption that, indeed, there is an incorporation there and there are those fundamental bylaws. I just wanted to make that point.

Mrs Munro: First of all, I think it's really important that all of us recognize the importance of public accountability and of having transparent actions, and the responsibilities done on our behalf as citizens. There's no doubt that there's a constant effort necessary to be vigilant. In response to a comment made by the member a few minutes ago that there are always going to be

people who are resistant to change, I think the fact that you are assuming that in the definition section there would be those inherent definitions is, frankly, problematic. When you referred a few moments ago to the fact that hospital boards do not have an obligation to have open meetings but now you're suggesting that within the confines of their own legislation that would exist I think points to the weakness of assuming in section 1 that those kinds of things you want to have happen would be within them.

You've also mentioned on several occasions the importance for you in looking at Michigan's Open Meetings Act as a model. Very clearly, the authors of that act went to great lengths to make sure that those things were defined so that there would not be the opportunity for anyone who was under the umbrella of that act to be able to use what were their own bylaws or rules. In fact, they are right there for them.

I think that while it may be true that many of these groups you're speaking about in your schedule have some definitions, I'm not sure they're all there. I'm not sure that by not referencing them, it gives us the comfort that these things have been defined in a way that would treat all of the groups that are listed under the same kind of legal obligation. For those reasons, obviously, I feel that it should have been seen necessary to include them.

Ms Di Cocco: Mr Chair, if this is the concern of the government members, would it be possible to move a definition of "meeting" that I have looked at at this point in time? Because I had made that assumption.

1110

The Vice-Chair: As far as I know, there was no deadline for amendments, so an amendment could be moved at this meeting. It should be in writing, please.

Ms Di Cocco: OK. Or if the member wants to make it, I certainly have one here.

Ms Martel: Can I make a suggestion that we stand down this section until the definitions are provided? Can we do that?

The Vice-Chair: Yes. I just want to make sure from the clerk that a motion to stand down is necessary, or just agreement.

Clerk Pro Tem (Ms Anne Stokes): You want to stand down the next section?

The Vice-Chair: Yes.

Clerk Pro Tem: It should be agreed and then postponed.

The Vice-Chair: Agreed. OK.

Mr Albert Nigro: I wonder if I could just interject.

The Vice-Chair: I'm getting all kinds of advice here.

Mr Nigro: Unless I'm badly mistaken, what the member is going to move is not an amendment to section 1 but an amendment to section 2. There are reasons for that. It deals with the issue which has been discussed, again, unless I'm badly mistaken. I don't want to preempt the member's moving the motion, but it doesn't deal with section 1; it deals with section 2.

Ms Di Cocco: OK.

The Vice-Chair: All right, if you'll take that advice.

Ms Di Cocco: I take that advice, which means—

The Vice-Chair: Which means we're dealing with section 1 in your discussion. There was advice that it was an amendment to section 2, really.

Ms Di Cocco: Open meetings are in section 2.

Mr Raminder Gill (Bramalea-Gore-Malton-Springdale): I do appreciate that Ms Di Cocco had an amendment, and I know there was no deadline. She's brought it forward and that's great for improvement of the bill, because it was brought up by us that there were some deficiencies. That's great, but I'm just wondering if Ms Di Cocco, in the sense of improving this bill, has more amendments that she would like to bring forward now for the rest of the clauses.

Ms Di Cocco: You should have a package.

Mr Gill: In addition to those, because you just brought one up.

Ms Di Cocco: No. By the way, I have to say that if we're looking at section 1, and I believe Ms Munro was talking about the designation of a meeting, what it entailed, I don't think that's in section 1. The amendment is for meetings and I believe it's section 2.

Mr Gill: I'm just trying to facilitate if there are other amendments that you have.

The Vice-Chair: OK. I understand. We're just trying to foresee other amendments. We're told at this point in time, at least, there are none.

Ms Di Cocco: The definition for "meeting" is in section 2.

The Vice-Chair: OK. Ms Munro, you requested the floor?

Mrs Munro: Yes. I just wanted to come back to a comment that I believe Mr Maves made a few moments ago, the fact that I think there are some other definitions that are necessary that I think he alluded to, because pivotal to all this is the definition of what is an "open" and what is a "closed" meeting, so that not only are we talking about what constitutes a meeting but also the question of what it is.

The other thing is the question of what constitutes a decision from this because, again, in the body of the legislation, we have to deal with that as well. I think we need to be looking at some of those terms that are used throughout the bill.

Ms Martel: I think Ms Di Cocco is going to respond to that, and then I have a question for legislative counsel.

Ms Di Cocco: Yes. There is a section in this bill that does define what the criteria are for closed meetings and not closed meetings, so I have to say that concern is addressed in the bill.

The Vice-Chair: In another section.

Ms Di Cocco: Yes, in another section, as I said, and it states exactly under what areas. I can assure you it's in here.

The Vice-Chair: You had a question of leg counsel, Ms Martel?

Ms Martel: Yes. I wanted to ask legislative counsel if you can clarify what appears under the Corporations Act in terms of definitions for any of these, and would the

organizations we are talking about in this bill be bound by some of those definitions or rules and procedures that are set out, if there are any, under the Corporations Act? Second, if you look at the schedules, both 1 and 2, that appear before us, can you tell this committee whether or not all of those agencies would in fact have to be incorporated and then bound by the rules of that act?

Mr Nigro: I can try to answer your question generally; I cannot answer in detail with all the entities that are listed in those very schedules, because I would want to check and I don't have the statutes in front of me.

The Business Corporations Act will govern some entities and the Corporations Act will govern others. Most of these, I would expect, would be under the Corporations Act or, in turn, would be statutory corporations which will either have their own rules and statutes or regulations, or to which parts of the Business Corporations Act or the Corporations Act will have been made to apply legislatively—probably the Corporations Act.

Under the Corporations Act, which is basically non-profit corporations, there are rules in respect of bylaws which they're all compelled to comply with that would deal with setting out, among other things, a board of directors, as we've already set out, quorum for meetings and how meetings are to be conducted. Whether they spell out what constitutes an open or a closed meeting and under what circumstances an open or closed meeting must be held, I can't tell you. I'm not a corporate counsel. I'd have to do some research on that.

Ms Martel: What about conflict of interest?

Mr Nigro: Conflict of interest is dealt with, I think, in section 132 of the Corporations Act. If I recall, it deals with members of the boards of directors and officers of the corporation.

Ms Martel: So the corporations would have bylaws with respect to conflict of interest already?

Mr Nigro: They're bound by the statute. The statute would overrule any bylaws they have. They may have some details in the bylaws, procedurally how to conduct themselves, but in fact they have to meet the standard that's set out in the act.

Ms Martel: So there are standards set out in the act?

Mr Nigro: Yes.

Ms Martel: So it's clear what their obligations are?

Mr Nigro: Reasonably so, yes.

Ms Di Cocco: Just for clarification, the open meetings—this is the next section, though; it's not the section we're discussing, supposedly. It says that all meetings are open except—there are the exceptions that are clearly defined, when they should not be in open sessions. So I just wanted to say that the clarification is in the bill, and it's section 3 of the bill. There's also an amendment that comes into that and clarification again in the amendments, but it is in there.

The Vice-Chair: Is there any further discussion?

Mr Maves: My colleagues and I had a discussion about Ms Di Cocco's comments when we came back from the recess. I think it's fair to say there has been a

lack of communication between the parties on the bill. We would support the member moving withdrawal of the bill for clause-by-clause consideration today and I will undertake, on behalf of my colleagues, to submit a comprehensive letter to the member, section by section, about our concerns with the bill. Then we can have a dialogue that way so that we can either determine whether or not we'll ever be able to be satisfied with each section of the bill and whether or not we can support it, or whether we can amend it appropriately.

As I'm looking at this, we support the concept of the bill, obviously; we support it in principle. As things stand now, I believe that if each section comes to a vote, our members are going to be uncomfortable and probably won't support it. So in support of the member's not losing her private member's bill in this fashion, if she would move such a motion, we would support it and be willing to undertake that.

The Vice-Chair: We can certainly have some discussion, but it would look a lot nicer if we just simply had agreement to do that. But it can also be done by motion.

Mr Patten: It would be helpful if you had specific amendments. In other words, you're saying that you agree with the concept, and it's a fairly straightforward concept. Rather than a letter saying, "We have trouble with this, trouble with that," which is difficult to respond to in that sense, it would add enormously to the credibility of the motivations and the intent of the members on the government side if you said, "Listen, here are some amendments that we would recommend," and then there would be some opportunity for response, rather than simply saying, "We disagree with this, we disagree with that." It's very difficult to respond to an open "Dear John" letter, "We don't agree with you." You understand what I'm saying.

1120

Mr Maves: If in compiling the concerns that we have we feel that we can come up proposed amendments, we'll include those.

Ms Di Cocco: OK.

Ms Martel: Let me just make two points. I'm prepared to agree to that process. Let me raise two concerns.

Number one, the committee finished with its hearings some time in December, probably two months ago. Frankly, if there were concerns on the part of the government about particular sections, I would have hoped they would have been raised before now, because the date of this clause-by-clause was set a number of weeks ago. I am very concerned that we are only hearing about these concerns here today, when we are supposed to be dealing with clause-by-clause.

Secondly, and let me reiterate this, I am very concerned when the parliamentary assistant comes and gives the government position at the start of the meeting, which is to oppose this bill. I hope that he is having second thoughts.

Mr Kells: I am not having second thoughts, but I'll get my chance.

Ms Martel: Well, then I am going to take Mr Maves at his word when he says that the other committee members are serious about having a second look at this and would agree to the process that he has outlined, and hope that in fact the other members will do just that.

The Vice-Chair: I think we're working toward agreement. Mr Kells?

Mr Kells: I would just like to get on the record that the ministry—and I spoke on behalf of the ministry at the public hearings—put our concerns on the record. That's why I didn't reintroduce them here. I would be happy to do it again if we had to.

The Ministry of Municipal Affairs' concerns are still valid and we will deal with Mr Maves when it comes to sending amendments and concerns back on it.

The Vice-Chair: Certainly my time is your time, but I'm not going you to encourage you to do all that again.

Is there any further discussion?

Ms Di Cocco: I will take in good faith what Mr Maves has said as an intent to address the areas of concern that the government has. I will take him at his word.

I certainly would like to have a timeline whereby I can have an opportunity to look at either the amendments and the concerns, so hopefully the bill can maintain the intent that is set out. If we can do whatever we need to do to improve it, to make it more functional, or whatever the other wording is that we can use, I'm more than willing to do so. If the committee has time this session or if it's best to do it when the House resumes again in the spring, I am certainly more than willing to do so.

The Vice-Chair: The Chair would suggest that with the schedule that we have and individual schedules, and to give some time, in all likelihood it would come back before the subcommittee and the committee when the session resumes.

Mr Patten: Mr Chair, looking at the schedule, I believe there are times in there, if you desire.

The Vice-Chair: But I might add that I'm talking about individual members' times as well. You could speak to your colleagues about that.

Mr Patten: You know something I don't know. Fine.

The Vice-Chair: So we have agreement that this will then be deferred to allow time for full discussion and communication. The subcommittee then will determine the dates when we come back. That's great. I'm glad to leave this in John Gerretsen's hands with agreement.

If there is no further business—

Ms Martel: May I raise just a small matter?

The Vice-Chair: Yes.

Ms Martel: We talked yesterday about revising the schedule somewhat. I assume that's to save some people some time or to get the meetings over with earlier. I note that we're due to start at 1:30 every afternoon. Can we start at 1 instead and advise the ministries, or will that cause a problem for people's schedules?

Mr Maves: Agreed.

The Vice-Chair: Of course, we've already determined on the public hearings on Bill 53 that we're going to start at 9, have a one-hour lunch break and go until 3. But if there are others, we can—

Ms Martel: At 1.

The Vice-Chair: OK. We're not going to reschedule anything for 1 o'clock today, though.

Clerk Pro Tem: No, we're not. But for the rest of the schedule?

The Vice-Chair: Oh, the rest of the schedule you want to start at 1.

Ms Martel: Yes.

The Vice-Chair: Any problems?

Mr Maves: Sure.

The Vice-Chair: OK. The rest of the schedule will start at 1.

This committee meeting stands adjourned. Thank you.

The committee adjourned at 1126.

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Official Report of Debates (Hansard)

Thursday 21 February 2002

Journal des débats (Hansard)

Jeudi 21 février 2002

Standing committee on public accounts

2001 Annual Report,
Provincial Auditor:
Ontario Innovation Trust

Comité permanent des comptes publics

Rapport annuel 2001,
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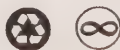
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STANDING COMMITTEE ON
PUBLIC ACCOUNTSCOMITÉ PERMANENT DES
COMPTES PUBLICS

Thursday 21 February 2002

Jeudi 21 février 2002

*The committee met at 1041 in room 151.*2001 ANNUAL REPORT,
PROVINCIAL AUDITOR
ONTARIO INNOVATION TRUST

Consideration of chapter 2, Towards Better Accountability.

The Chair (Mr John Gerretsen): Good morning. I wonder if we could call the meeting to order. This hearing is to deal with chapter 2 of the 2001 annual report of the Provincial Auditor, dealing specifically with the Ontario Innovation Trust.

We have with us this morning Mr David Bogart, the executive director of the Ontario Innovation Trust, Bryne Purchase, the Deputy Minister of Energy, Science and Technology, and Mr Bob Christie, the Deputy Minister of Finance. Gentlemen, we await your opening comments. Who would like to take the lead on this?

Dr Bob Christie: I'll begin.

The Chair: Could you identify yourself, please?

Dr Christie: Yes, I'm Bob Christie from the Ministry of Finance. With me is Gabe Sékaly, the assistant deputy minister of our fiscal and financial policy division.

We've handed out some material just to give you some background on the innovation trust. I'll talk about the financial reporting and accountability issues that have been raised and then Bryne will follow up with some information on the operation of the trust itself.

Where we start, I think, with the Ontario Innovation Trust is with the creation at the federal level of the Canada Foundation for Innovation, the CFI, which was an arm's-length body created by the federal government to invest in innovation technology, R&D technology and infrastructure, primarily in our post-secondary institutions and research institutions like hospitals. The CFI was founded on the basis of looking for matching donations. So the province faced an issue of how to respond to that. There were certainly concerns, I think, from some parts of the research community that the province be able to respond in order to ensure that we got our share of the CFI money.

The OIT, as a vehicle to assist in that response, at any rate, was announced in the 1999 budget to help hospitals, universities, other research institutions etc renew their research infrastructure and work with the Canada Foundation for Innovation in partnership to do that. It

also works co-operatively with the Ontario research and development challenge fund, which funds the human resource requirements of research. Four members of the trust board also sit on the challenge fund, as a way for them to coordinate their activities and make the most effective use of the resources they have.

The OIT and the CFI also work together and the government has, over the years, provided initially \$250 million in the 1999 budget and \$500 million in the 2000 budget to the trust. As of February this year, the trust has awarded over \$430 million for projects. In terms of financial reporting, these amounts were reported in the year the decision was made and the year in which the grant or the trust was made. This was consistent with our understanding of the guidelines of the public sector accounting board, and the public accounts for those years did receive an unqualified treatment.

We recognize that these are areas where the accounting profession will likely continue to do research and continue to look at the ways of best reporting these kinds of transactions, whether they're multi-year grants or the use of trusts etc. At the moment these are the rules, and we've presented our financial accounts consistently.

In terms of accountability issues, because this is an arm's-length trust, it's set up with a trust indenture that governs what it does, and the structure of it is such that if the money isn't used, it goes to the beneficiaries, so it has been put at complete arm's length from government. So some of the traditional accountability measures that would apply to annual grant recipients aren't applicable here because of the difference in structure. The board itself, however, has implemented a number of accountability mechanisms. It is, of course, directly accountable to the beneficiaries and to the general public. They currently issue financial statements, which are audited by an external firm, and an annual report, and they have a Web site that explains the trust structure, its criteria for project approval and the awards made. There's a substantial amount of reporting and disclosure on the part of the trust.

The interest generated is reinvested in the fund, used to operate the trust and fund continuing investment into research. As noted, the funds are only available to the beneficiaries and can't be, according to the trust indenture, recaptured by the province. Under the indenture there's a very clear definition of eligible recipients, eligible projects, eligible costs etc, which are part of the

foundation of the trust and aren't open to the board to change. So there's a very well specified set of rules for the operation of the trust.

They follow a similar accountability framework to that proposed by the Public Sector Accountability Act, which was tabled this May for first reading. That framework is proposed to apply to the broader public sector. The proposal is that organizations table and make public a business plan for the year, a description of their progress toward achieving their publicly stated goals, audited financial statements and a business plan for the next year. They are also required to develop, within their business plans, statements of mission, goals, activities etc. This is all to be disclosed so that the public will benefit from transparency and will be able to hold the organizations accountable for their actions.

I think the OIT largely conforms to these requirements at the moment. Obviously, this legislation has not been passed yet. Depending on its future, it's unclear at this point the treatment of OIT, but there is provision within the act, as currently drafted, to have it apply to the innovation trust.

I've talked about the establishment of the trust and the indenture, the financial reporting of it and the way in which the trust is approaching the issue of accountability. I'd like to turn it over now to Bryne to talk about the OIT from a policy perspective, and also to talk to it from his role as a board member.

1050

Dr Bryne Purchase: Thank you, Bob. As Bob indicated, I'm here not just as the Deputy Minister of Energy, Science and Technology, but also as a board member of the Ontario Innovation Trust. I'd like to introduce Dr Tim McTiernan, who is the assistant deputy minister of the science and technology division.

In your handout, you'll notice that the first slide deals with the importance of innovation to the Ontario economy. In the last 10 years, two out of every three Ontario jobs have been created in research-intensive industries. It is widely recognized that innovation is the key driver to increased productivity and higher real income for Ontarians.

Given the importance of innovation to our economy, Ontario needs a science and technology strategy. Ours is based on three primary investments: investment in the creation of an innovative culture, investment in people and other research infrastructure, and investment in the incentive structure which encourages laboratory knowledge to be brought to the marketplace.

The Ontario Innovation Trust, as Bob indicated, was created in 1999 as a trust at arm's length from the government of Ontario. Its initial capitalization was \$250 million, which was subsequently raised by another \$500 million in the 2000 Ontario budget. The trust leverages funds from the Canada Foundation for Innovation and other institutions and it complements other Ontario research programs, such as the Ontario research and development challenge fund.

The trust was created through a trust agreement with Royal Trust Corp. The trustee has since been changed to the Northern Trust Co. It's governed by a seven-member board of directors who make the final investment decisions. It is administered through the Innovation Institute of Ontario, and Mr David Bogart is here representing the IIO.

As Bob indicated, there are seven members of the board. Those are indicated on the next slide. You'll notice there are two representing the universities. Those are nominated by the Council of Ontario Universities. One representing community colleges, Gerry McGuire, is nominated by the community college association. Dr Bette Stephenson is nominated by the Ontario Hospital Association. The rest are government-appointed members.

As Bob indicated, the trust was initially established to help leverage monies from the Canada Foundation for Innovation, which was established by the federal government in 1997 to support capital infrastructure for research. The CFI had an initial endowment of \$700 million and has a current endowment of over \$3 billion. The current commitment is over \$1.5 billion. The selection for projects: there is a competitive process based on peer review of scientific excellence. The current commitment to Ontario is \$527.8 million and 704 awards. That represents 34% of the total commitments to date.

The Ontario Innovation Trust may invest in eligible projects such as capital equipment, scientific collections, computer software etc. Eligible institutions represent universities, colleges, hospitals, research institutions and not-for-profit organizations. For-profit organizations are ineligible.

The funding level is up to 40% of approved cost, to a maximum of \$10 million. In exceptional cases the board of the trust may award up to 60%, to a maximum of \$15 million.

The project proposals considered by the innovation trust are evaluated on a competitive basis. OIT uses expert peer review to assess scientific merit of a proposal unless it has already been reviewed by another co-sponsor, in this case the CFI. We accept CFI peer review as equivalent to our own.

The OIT board further considers the project's potential to enhance Ontario's capacity for innovation, economic growth, health and environmental quality; the project's ability to contribute to the province's existing strengths—does it marry up institutions in joint ventures, for example, in a way we think enhances their overall capability? Also, we consider the complementarity with other provincial investments and the sustainability of the particular research initiative being proposed.

Incidentally, I'm here today in full knowledge of my other board members, who are very anxious and welcome the idea of coming and reporting to this committee at any time you wish.

The Ontario Innovation Trust board is directly accountable to its beneficiaries and to the public of Ontario. The Ontario Innovation Trust maintains a publicly acces-

sible Web site, in French and English, which lists investment decisions we have made, by institution, by project and by amount. So you can get all the information you want on each individual investment decision that the board has made. There is an annual audited financial statement. As well, you can of course access the backgrounds and details of each of the board members, the application forms if you wish to make application to the trust, news releases and other program information.

Just briefly, to give you an idea of the overall types of investments we have made to date, in terms of awards matching the Canada Foundation for Innovation investments, we have made commitments of \$325 million; in terms of non-CFI-matching awards, that is, awards that have other types of institutional matching required under our trust agreement but not federal government CFI matching, over \$87 million; the Ontario Distinguished Researcher Awards. The CFI provides a capital infrastructure grant to the Canada Research Chairs and we match that infrastructure grant to the Canada Research Chairs with something we call the Ontario Distinguished Researcher Awards—again, it's capital, it's not operating as it were—at slightly over \$19 million.

The total commitment is over \$430 million to date.

That is my formal presentation. We're open for questions.

The Chair: Thank you very much. We start off today with the Liberal caucus. I'm suggesting 15 minutes as an opening round and we can see where we go from there.

Mr Bruce Crozier (Essex): Thank you and good morning, gentlemen. First, I just want to briefly address the formation of the board of the trust. Are these appointments made by order in council?

Dr Purchase: Yes.

Mr Crozier: And the term is?

Dr Purchase: The term varies. It's in the trust agreement. There are three-year terms and two-year terms. It's actually specified in the agreement, I believe, that one from each community is allowed to be a three-year term and then the other person from that community is a two-year term. Yes, here it is. One of the individuals appointed pursuant to paragraph 8.2 which—I think that must be a designation of 8.2(a) as those who are appointed by the government. One of those shall be appointed to a one-year term and one shall be appointed to a two-year term and the other to a three-year term. Then it goes through, for example, those appointed by the Council of Ontario Universities—one is a two-year term and one is a three-year term—and so on. The same is true for the hospitals. The individual—in this case, Dr Stephenson—was appointed to a two-year term from the hospitals, and Gerry McGuire from the community colleges had a two-year term as well.

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Mr Crozier: I was asking because it's my understanding that the trust has a 10-year life. Under the terms of the trust, it's wound down after 10 years.

Dr Purchase: Yes, that's correct.

Mr Crozier: I was just curious whether any of the board members were appointed for the full term.

Dr Purchase: No, no one is appointed for life; that is, for the life of the trust.

Mr Crozier: Dr Christie, in your opening remarks, under accountability it says, "The board ensured best practices in accountability were implemented." How does the board do that? To put it in some context, you're not a member of the board, but Dr Purchase is, and I wonder how you could make that comment rather than a board member?

Dr Christie: The comment is with respect to the disclosure practices of the board and their relation to the requirements that have been laid out in the Public Sector Accountability Act and other expectations of good reporting.

Mr Crozier: But does the Ministry of Finance get involved to assure itself that this board operates under the best practices of the Public Sector Accountability Act—

Dr Christie: The act hasn't been passed yet.

Mr Crozier: —or at least the intent of it? To what extent does the Ministry of Finance get involved in seeing that the trust board is accountable?

Dr Christie: The Ministry of Finance does not have authority over the board or its accountability practices. We're certainly aware of and monitor what the board does.

Mr Crozier: I appreciate that you don't have any authority. But how it is then that you can say "the board ensured best practices"? To what extent can you make that statement without reservation or concern?

Dr Christie: The statement is made with respect to the degree of disclosure that the board has made. It can be made by examining the nature of the disclosure and the nature of the information. It's in that sense that the statement is made.

Mr Crozier: So that's kind of an observation you have made because you have an interest in where the money goes.

Dr Christie: In both accountability and in the operation of what's an important contributor, as Bryne says, to innovation and the economy.

Mr Crozier: You've also said, under accountability: "The board is directly accountable to the beneficiaries of the trust ... and to the general public." You don't mention the government, accountable to a ministry or to any administrative part of the government. It seemed a bit odd to me that the trust is accountable to the beneficiaries—those who receive it—as opposed to those who give it and how it's given.

Dr Christie: That relationship reflects the way in which the trust was set up. The degree of control, aspirations, objectives etc that was desired of the board was written directly into the articles of the trust. So rather than monitoring every year to see that this was done, to see that these objectives were being met, they were written directly into the requirements of the trust, and those are the rules under which the trust has to function.

Mr Crozier: I certainly don't mind that another ministry is looking at this trust and how it operates. Perhaps you can explain to me just a little further how the Ministry of Finance gets involved. For example, I fully expected and knew that the Ministry of Energy, Science and Technology would be appearing this morning. When I learned that the Ministry of Finance would be appearing as a witness, I just thought, "What's the Ministry of Finance got to do with it, quite frankly?" So maybe just to sum up, could you tell me what the Ministry of Finance has to do with it?

Dr Christie: The Ministry of Finance comes into this in a couple of respects. One is with respect to financial reporting. Because the innovation trust received public money in two years, it had to be accounted for in a certain way. The Ministry of Finance is responsible for preparing the public accounts of the province and the financial reporting of the province. As a result, we have to deal with bodies like the Ontario Innovation Trust, which, although arm's-length, has received public money and it has to be accounted for a certain way, depending, as I mentioned earlier, upon the rules and guidelines of the public sector accounting board. So the Ministry of Finance is involved with the innovation trust and most other bodies in the public sector and the sphere over which we consolidate operations. We're involved with them to the extent of reporting on their financial information and preparing the public accounts of the province.

With respect to accountability, our office of the controller has an interest in the broader practices of accountability in the public sector from a policy perspective, both by the province itself and certainly in the broader public sector in terms, again, of disclosure, transparency of reporting etc, the kinds of things that were addressed in the Public Sector Accountability Act, which was tabled with the budget this spring. I hope that—

Mr Crozier: I think so. Does this, then, apply to all kinds of arm's-length, third party boards or commissions or entities that receive funds eventually from the province of Ontario?

Dr Christie: If they receive public monies, we will be involved in terms of reporting on them. Again, depending on the size of the entity, if and when the proposed Public Sector Accountability Act passes, then depending on likely the size and the regulations under that act, the Ministry of Finance, together with the responsible line ministry—because all these bodies typically report directly through an operational ministry—would be concerned more with the broad level of practice and seeing to it that it was disseminated through the broader public sector and working with ministries to improve the overall accountability practices of the broader public sector.

Mr Crozier: Dr Purchase, I could ask you essentially the same question that Dr Christie has assured us of; that is, "The board ensured best practices in accountability were implemented." How does the board do that?

Dr Purchase: We've had discussions at the board about accountability. It has been raised in a number of annual reports of the Provincial Auditor. He has men-

tioned accountability. I was in the Ministry of Finance when the trust was created. We've known these concerns all along, and we have attempted, as a board, to adjust these and have, as I say, had a number of discussions at the board to ensure that my other colleagues on the board are attuned to the need for us to live up to the full letter of our responsibilities in the trust, but also to go as far as we possibly can to reassure legislators that we are accountable and that we are transparent in everything we do. So, as I said, I'm here really representing my colleagues on the board and representing their sincere interest in making sure we take every step to satisfy the Legislature that we are indeed not just living up to the terms and conditions of the trust but that we are seen by the Legislature as being accountable, in some sense, to the general public that you represent.

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Mr Crozier: Yes. In your role as deputy minister I assume that you have a great deal of influence in the ministry. I certainly hope you do.

Dr Purchase: I wish, sir, I had more.

Mr Crozier: With your ministry responsibilities, how do you balance that when you act as a board member?

Dr Purchase: I do consciously think about the responsibilities that I have as the Deputy Minister of Energy, Science and Technology and the wishes of the minister and the government in respect of its overall science and technology strategy. So in many ways, when I speak at the board, I speak out of my knowledge of what the government is attempting to do in its overall strategy. I certainly am free to communicate all of those things that I know in terms of what's going on in the Ontario research and development challenge fund or the Premier's Research Excellence Awards or the Ontario centres of excellence, the Premier's platinum awards and many of the other programs that we run, in which I simply try to talk to my colleagues, and when we're talking about the broad activities, if you like, and strategic interests of the trust, I try to bring as much information to the table as I can given my unique position as the deputy minister.

When it comes to individual investment decisions, however, I am not a scientist and I don't as a board member, although we make those investment decisions, bring any unique scientific knowledge to the table. I take the peer review that is done by scientists who have the appropriate credentials as sufficient evidence of the worthiness and the quality of the science that it is being proposed we invest in.

Mr Crozier: How am I doing, Chair? I have a question that may take—

The Chair: You've got two minutes left.

Mr Crozier: OK. I don't know whether we can do this in two minutes or not, but we'll continue on after.

We've established that we hope you have the influence in the ministry. Are you there—this trust acts at arm's length, yet the arm has some fingers on the board, and that's you. Are you there to see that the trust board carries out the ministry or government policy? Do they take your advice and then go on about their business, or

do they say, "Wow, the deputy minister has spoken and we'd better do it"?"

Dr Purchase: I think if you look at the other members of the board, sir, you would appreciate that—

Mr Crozier: Well, how do you feel that they feel? What's the body language in the room?

Ms Shelley Martel (Nickel Belt): Ask Bette Stephenson that.

Dr Purchase: I used to work for Dr Stephenson back when I was in the old Ministry of Treasury and Economics and she was the minister.

Mr Crozier: She has roots in Essex county, so that's why. Anyway, that's fine. Thank you.

The Chair: Ms Martel.

Ms Martel: Thank you to all of you for coming here today, and I want to say at the outset that I do appreciate the need to have government fund research and development. I also am not here to undermine the credibility of the board members, but I have to say at the outset that I really don't believe for one moment that the trust vehicle was necessary to facilitate the government providing grants for scientific research and development. I just don't.

I heard you, Dr Christie, say—and I thought this was a reason for the establishment; you'll correct me if I'm wrong, I know—that it was established to help leverage money from the Canada Foundation for Innovation. That's fine, except that the government itself could have just as easily established a mechanism within the ministry to match federal funds that would still have allowed the ministry and, hence, the government to retain control of the funds, that would still have allowed the minister to be accountable to the Legislature and that would still have allowed the Provincial Auditor to do value-for-money audits. So why was this vehicle used to support grants for research and development? It clearly could have been done within the ministry, either yours or Mr Purchase's.

Dr Christie: I'll ask Bryne to comment on this as well, because he has direct knowledge of it. Many of these projects are multi-year projects. What the foundation or trust vehicle permits both the CFI to do and the innovation trust to do is make secure multi-year commitments. Because we operate here on an annual appropriation process, it's more difficult to make multi-year commitments because they have to be voted on every year.

The second factor, I think, is the degree of expert decision-making that one wants to bring to bear and is seen to bring to bear, which certainly the trust vehicle facilitates as well. I'll ask Bryne to comment on that as well from his knowledge.

Dr Purchase: I think Bob hit the two primary considerations in the creation of the trust vehicle as a vehicle with unique features for science and technology. We run many programs, and we basically run them off a concern for the highest-quality science. These trust vehicles certainly reinforce that as the primary concern. As board members, what we do—literally, the scientists

tell us what is, in their opinion, the highest-quality science, and that's what we are required to invest in. That's a unique feature of a trust vehicle, if you like.

Ms Martel: I'm going to challenge both of those. The auditor said earlier that in fact the government provides multi-year funding commitments right now through the Ministry of Agriculture and Food to the University of Guelph, and mentioned a specific project. I don't know how widespread that is, but I know that it's being done currently in government.

Second, with respect to expert decision-making, I have two points: the ministry could well have established its own advisory committee, with the same board members, right within the ministry, to be under the accountability of the ministry. You could have still provided that level of expertise. The other thing I note is that over \$300 million of the \$400 million that has been spent has come because of federal matching funds, and I assume the peer review was done at the federal level, not the provincial level. You're going to correct me if I'm wrong. So I hear what you're saying, but I don't buy it. Maybe you want to try again.

Dr Christie: On the matter of multi-year commitments, governments do, as you know, make multi-year commitments. Governments also change multi-year commitments fairly regularly; sometimes up, sometimes not. The degree of security behind a multi-year commitment, which is technically based on year-by-year appropriation, is less than is delivered through this particular vehicle. Because the CFI was able to make these secure, longer-term commitments, the degree of security provided by the trust vehicle let the innovation trust make the same kind of commitment that the CFI could make but that a grant program couldn't make because it would be subject to year-by-year appropriation.

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Ms Martel: If I hear you correctly, you were concerned that your government or another might not—what's the word I'm looking for?—respect an allocation that was announced over a multi-year period?

Dr Christie: I'm not aware of any thought process to that regard. As I noted earlier, these multi-year commitments can be varied in both directions. But for planning purposes, the trust simply provides certainty.

Dr Purchase: As Bob was saying, I was there so I could present material evidence in a sense that we really were driven very much by the creation of this vehicle at the federal level, that they had created a trust which had these features that Bob was trying to outline for you. Had there not been a CFI, would we on our own have invented the trust at that time? As I go back and try to think about it, I can't think that we would have invented it, other than that it existed at the federal level and we needed to find a vehicle to effectively make sure that we got, if I might say, our fair share of the federal money. In a sense they set the table for us and we were following through and trying to make sure that Ontario research institutions and researchers received a reasonable share.

Ms Martel: I appreciate your intention. I guess I would just make the argument again that in a former time period when I was Minister of Northern Development and chair of the NOHFC, where there was accountability because there was a specific act and the chair had to be the minister, we did the same thing. We asked proponents all the time to access federal funding through FedNor or other federal programs, and then they came to us and we could match. But we did it with a vehicle that remained within the ministry.

I appreciate your explanation, but I think what you gave up—and I'm not saying you directly because I respect this is a political decision—what the government then compromised on was accountability. You have set out for us the accountability mechanisms within the board. I'm not disputing those and I'm not disputing the integrity of the board members to try and be accountable. The problem for me is, the minister is not accountable back to the Legislature. He may have tried to say that in the Legislature this December, but there is not a bill that established this trust; there is nothing in the trust agreement, as I read it, that makes him responsible. So there is no government accountability back either to the Legislature or to the auditor or, I would argue, to the public—because it's taxpayers' money at the end of the day—as a result of using the trust.

Mr Christie, you are right, it really is at arm's length, and as a result of being at arm's length all of those things are lost. I'm wondering, at the time that the decision was made, were those considerations carefully reviewed?

Dr Purchase: We did at the time discuss this matter with the Provincial Auditor, as I recall. I'm not sure whether Mr Sékaly was with me at the time or not. We were conscious, as I recall, a bit ago of the uniqueness of the trust. I don't know that we had anything else like this.

Going back to that situation, I think we were trying to find, as I recall the discussions around that, a vehicle to make sure that we could somehow be there. That was probably the principal, if you like, substantive reason for this mechanism of the trust.

Ms Martel: OK, fair enough.

Let me ask—either one of you can answer. You talked about the proposition that the Public Sector Accountability Act is proposed to apply to the trust, if I heard you correctly. There's a proposal that it, if passed, would apply to the trust.

Dr Christie: The Public Sector Accountability Act is a framework and provides the capacity to include an organization like the Ontario Innovation Trust. That would depend on the drafting of the regulations.

Ms Martel: Now, if that were to occur, there was a decision made to have that act apply, would that change anything in terms of accountability? I'm specifically thinking would it make the minister accountable to the Legislature for the activities of the trust? Would it then allow for a value-for-money audit by the Provincial Auditor? Do any of those changes in accountability come if the trust comes under this act?

Dr Christie: The impact on accountability is with respect to accountability to the public. And there are requirements in the Public Sector Accountability Act for the way in which broader public sector organizations are to be accountable to the public and the form that that accountability takes. So it doesn't provide for accountability to the minister; it provides for accountability to the public.

With respect to the auditor in value-for-money audits, the Public Sector Accountability Act would not be the vehicle for that; the vehicle for that would be the Audit Act. The government has announced an intention to change the Audit Act in that regard, and it would be those changes and the specific nature of those changes that would address the innovation trust. Those are still under discussion, I think, with the Provincial Auditor.

Ms Martel: But they're a long time in coming, those changes.

You recognize—I'm sure you do, Mr Christie in particular, because you've been before this committee before—there's a substantial difference between the audit that appears on the net of the trust versus the auditor's value-for-money audit and that there's a substantial difference in terms of ensuring that a major amount of money, three quarters of a billion dollars, is being used in the best public interest.

Dr Christie: I certainly recognize the difference, and I think it's a difference that applies not only to this trust but to a number of other transfer payment recipients, which is, I think, the reason why the auditor has raised the concern from time to time about audits and transfer payment recipients. It's less a function of it being a trust than the scope of the value-for-money audit role of the Office of the Provincial Auditor.

Ms Martel: I guess where I was coming from is the minister has essentially tried to justify accountability to the public and to the Legislature by declaring that these statements are audited on an annual basis. We appreciate that, but I think there's a big difference between that audit and what we would expect the auditor to do if indeed he had authorization to look at the trust.

Right now, you have \$750 million that has been transferred. I gather there wasn't a transfer in fiscal 2000-01 or 2001-02. When would you do the transfer?

Dr Christie: The year is not finished. If there were to be a transfer in fiscal year 2001-02, it would have to be decided before the end of March.

Ms Martel: In that regard, because the auditor has essentially said that the government has to cease its multi-year funding in terms of showing as a current year expenditure, if you were to flow money, how would you respect the auditor's statement that in fact the multi-year funding and showing it in a current year has to cease? How do you do that now?

Dr Christie: That is to date a hypothetical question and a decision on that hasn't been made. The form that any future support to the innovation trust will take I think will be decided by the substance of the business and policy case for supporting the trust, rather than by the

reporting issues that surround it. I think anyone would agree that it's the business need behind the transaction that should drive how you do it, not the reporting of it. I think that would be true of any future transaction with the trust. We account for these things, as I said, under the guidelines of the public sector accounting board, and we would have to discuss that with the auditor and determine how that ought to be approached.

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Ms Martel: Yes, I know, because you're following their rules, but he has also made clear that he has concerns with respect to their rules and how that funding shows up in the public accounts of Ontario.

Dr Christie: Typically, when there are issues and concerns with the rules of the public sector accounting board, we will express our concerns to them about it, the auditor will express concerns to them about it and they will study ways of improving the reporting. I'm not aware that they've taken up this one. Gabe?

Mr Gabriel Sékaly: I'm Gabriel Sékaly, the assistant deputy minister. The Provincial Auditor could correct me, but I think PSAAB is forming a task force to look at this issue as well as other issues relating to a reporting entity. But I think there is a task force that's going to be formed.

Mr Erik Peters: There are actually two task forces, one dealing with transfer payments and one dealing with a reporting entity. They were touched on in different areas.

Mr Sékaly: Based on the recommendations from PSAAB and the new rules that may come out, new changes to the accounting handbook—obviously we followed the PSAAB rules. As the auditor knows, we do have discussions with him when things are in grey areas. As always in things on paper in terms of accounting, there are grey areas, so there is always lots to discuss. But we do endeavour to follow the accounting rules of the public sector accounting board.

The Chair: I'll turn it over to the government side now.

Mr Raminder Gill (Bramalea-Gore-Malton-Springdale): Thanks to everyone for coming in this morning. As all of my colleagues said, I think it's very important to have this kind of innovation fund. I personally think it should be, as it is, arm's length, because I don't think the government should be deciding where this fund is going to be spent as, similarly, we don't want to be deciding what sort of research universities should be carrying out. So it's important from that point of view.

Let me ask a question. It seems from your handout that we have several kinds of funds out there: there's the Ontario research and development challenge fund, \$500 million; the Ontario centres of excellence, \$32 million; the Premier's Research Excellence Awards, \$95 million; the Ontario Innovation Trust, \$750 million. In your opinion, do you think it should all be consolidated and run as one, rather than having so many different funds?

Dr Purchase: One of the things we depend upon a great deal in the operation of all of these programs is the

efforts of others, experts in the community who work pro bono. They receive no compensation from the government. They spend a great deal of serious hard work and time to make sure that the allocations to individual researchers or research projects are done in a way that reflects the highest quality, with the biggest scientific bang for the buck, if you like, that we can get. We could not do that. There are simply too many different programs and foci of those programs, putting them all in one big organization—other than the ministry itself, which attempts to coordinate the overall activity of these programs—to make it work. We need too many volunteer hands to produce the best quality allocation we can get. Each of these programs has its own unique features, so I would not recommend that we put it all in one lump and say, "Here is the one science and technology program for the province." I think it works quite effectively as it is.

One of the things, to grant you your point, is we do have the chairs of each of these programs sit down with the minister, myself and other senior officials to have broad discussions about the direction of science and technology policy and the kinds of investments overall we seem to be making as a result of what's bubbling up, as it were, from each of these individual investment decisions being taken by these organizations. We do have a coordinating mind, if you like, to try and make sure that we, from a holistic sense, are maximizing our investments as well.

Mr Gill: Are there any board members that sit on the CFI as well as on the OIT?

Dr Purchase: Yes, there are. I think in the handout I indicated that there are at least three of us: Michael Gourley, who is the chair—

Interjection: The CFI.

Dr Purchase: CFI, did he say?

Mr Gill: CFI.

Dr Purchase: Oh, I'm sorry, sir.

Mr Gill: Yes, if there's an overlap.

Dr Purchase: No, there's no overlap with the CFI. The CFI is chaired by Dr John Evans, and Dr Strangway is the CEO. It's a uniquely federal program. We do talk to them and there are, I would say, connections between the organizations, but no, it's a uniquely federal initiative.

Mr Gill: Since it's a matching type of fund, do we assume that anything approved by CFI is automatically going to be approved by OIT?

Dr Purchase: No.

Mr Gill: Should it not be, because of matching—

Dr Purchase: We talk about this quite a lot because we're anxious to make sure—we have, in a sense, the clear notion that the government obviously wants us to make sure our research institutions get a share of that federal money, so not matching would be a huge decision. We are reassured, of course, that it is quality science. It does go through the federal peer review system and so forth. So it would be quite a significant decision not to match the federal.

Mr Gill: So we assume 99% of the CFI approvals will be approved by OIT?

Dr Purchase: I think that's probably a reasonable assumption. It's not something that the board is compelled to do, though.

Mr Gill: Is \$750 million a cap? Is that the max or is there going to be more money? Do you know?

Dr Purchase: I can speak, I think, as a board member, although I'm in the kind of curious position of also being a deputy minister in the government. We'd love to see more money devoted to science and technology for sure. I don't think that would come as a surprise to my colleague.

1140

Mrs Julia Munro (York North): I wanted to ask you about the question with regard to the money that's been set aside that has been disbursed, because that has certainly been one of the issues that the auditor has raised, that the money has shown up on the books in one year and it hasn't been spent in that year. I wondered if you could give us some idea of the sort of practical reasons why that would be done and why you would see that as necessary.

Dr Purchase: Again, I think this goes back to our earlier conversation about when we created the trust and the decision to utilize the vehicle of the trust. I might add, incidentally, in response to that, and this is because I was there and I do know, that never was there a discussion, and I don't think I'm breaking any confidentiality rules when I say this, which said, "Gee, we'd like to keep this out of the Legislature." It just did not happen. We never thought of that as an issue; we didn't. Maybe we should have, in retrospect, but it was never consciously considered.

The advantage, again, comes back to that we can act in a similar manner with secured—you know, that we can match exactly the federal trust money allocation, if you like, and do so without concern for, "Maybe next year we won't get that allocation," and so forth: perhaps there would be a change. So that is a significant advantage. I would think.

Mrs Munro: My second question again has to do with one of the other major issues that I think the auditor has raised, and that is the question of the accountability within the framework of the situation we have today. I just wonder, given that your recipients, the beneficiaries, are those institutions which are recipients of other government monies, would you see that in the new proposed Audit Act, some of the concerns that have been raised would then be dealt with in what would be the auditor's new role with regard to those institutions?

Dr Purchase: I'll take a first shot at that. Again, speaking from the point of view of a director of the trust—I'll let my colleagues speak to the proposed legislation itself, but speaking as a director, I think we want to see this vehicle, because we think it is an effective vehicle—we're very anxious and very open, I believe, to attempt to emulate the best practices that exist and to maximize, if you like, our accountability. I'm not

going out on a limb, I don't think, in saying that for my colleagues. If it would mean that we would get more money, we would be happy to do whatever is required. But I mean that quite seriously. The accounting world and accountability is an ever-evolving feast, if you like, and we will continue as an organization, as the Ontario Innovation Trust, to try to make our accountability even better. So I think we're open to something that would—as I say, if that act doesn't apply to us, we might take a look at some of the things that it does and say, "Why wouldn't we choose to somehow try to reproduce the same result here?"

Dr Christie: Just to add a comment to Bryne's, the Audit Act would deal with the value-for-money concerns that the auditor has expressed; the Public Sector Accountability Act would deal with the financial reporting issues and the disclosure issues. Between the two of them, they would certainly deal with a lot of what would be at issue in terms of the recipients; they would deal with how the final recipients of the money spent the money. Of course, the trust itself is not a final spender; it's a granting agency, in effect. You're absolutely right that the final spenders of these monies are the universities, colleges and research institutions.

The Chair: You've got one minute left, Mr Maves.

Mr Bart Maves (Niagara Falls): I'll ask just a quick question that I had already posed to the auditor, and I'll pose it to you. As I see it from what your comments have been, the chief benefit to setting up a trust fund and flowing the money in the years that the government flowed the money into this fund is in fact that it enforces a type of discipline on the government to make sure it has the money available to make these investments, because it's already flowed the money. The money now sits there and is utilized for this purpose. So it kind of enforces the discipline that when these projects come up to get the funding the money's there, whereas if it was funding out of revenues, there might be annual revenues and it would be tempting for the government to not flow the money because they were having a particularly difficult budget year and decided not to participate in the program with the federal government.

So, number one, it enforces discipline. It provides certainty, was the way you talked about it. The other thing is that it allows us to flow the money actually when the government has the money in a fiscal year, whereas in future years it may not be able to flow the money because of fiscal pressures. Is there any benefit in flowing this money into a trust beyond that, that you can see? Is there any business benefit to the money being in a trust rather than being in government revenues?

Dr Christie: I would cite a couple of other things. You've identified the major ones. The trust vehicle lets the decision-making be delegated in effect to experts in the field. The policy basis of the decision-making and the objectives of the fund were expressed by the government and written into the indenture. But to get down to the micro-decision-making, the trust allows for an organized

framework within which experts can exercise their expertise.

It's also the case that the trust can invest any money it has not flowed and give itself some extra flexibility by earning interest on that money over the period of time, which is a practice the federal government's followed, not only with the Canada Foundation for Innovation, but the Canadian millennium fund, both of which function in that way.

Mr Crozier: I'll address this to both Dr Purchase and Dr Christie. I usually do that when I don't know to whom I should address it.

I understand that the Auditor General, the federal watchdog, as well as our Provincial Auditor, do not encourage and in fact do not want governments to flow funding as, for example, has been done here, where it's multi-year funding that's accounted for in a particular year. I guess they've both expressed that.

In fact, there hasn't been any money transferred to this trust fund in the last two fiscal years, or at least the last fiscal year and this year to date. And yet, Dr Christie, you said, in answering Ms Martel about this year, that that's hypothetical. So that leads me to believe that there could be money transferred this year and that maybe you then don't necessarily agree with the Provincial Auditor and also the federal Auditor General that this is the correct way to do it.

Dr Christie: With respect to this year, I was reflecting the fact that these are decisions made by governments and not made by persons like myself.

Mr Crozier: Yes, that's no trap or anything. I understand that.

Dr Christie: I'm just being cautious there. With respect to how we would treat that and the concerns raised by the Auditor General and by our auditor, I think we understand the concerns both around accountability and reporting. I would describe the choice that would have to be made in that instance as one between the existing accounting guidelines that we have from the public sector accounting board and the preferred direction in terms of reporting and disclosure that the various Auditors General have expressed, and how that would be, because that has not yet occurred. I've described the merits of both approaches.

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Mr Crozier: So the government hasn't made a decision not to use this method any more.

Dr Christie: I'm not aware of such a decision.

Mr Crozier: OK. When an applicant comes to the board, Dr Purchase, does the board look at the application and say, "It's a good application, we like it, but we're not going to approve it before you at least attempt to get money from the Canadian innovation fund"?

Dr Purchase: I would probably defer to Mr Bogart on this, but typically the applicant would already have a CFI award and would be coming to us post or would apply simultaneously to both programs. However, if someone comes to us without a CFI award, which does happen—as you know, we do make these allocations. We can't

fund more than 40% of their projects with the caps that we're talking about, so they do have to have other partners. That's clearly a requirement. We would not totally fund a project ourselves. We have to see other people's money invested, that they're convinced this is good, as well as having to convince ourselves that it's good.

Mr Crozier: I guess I was trying to go toward the independence of our fund as opposed to the federal one. I know it would be difficult for you to say that in 100% of the cases they always have federal funding, because there may be circumstances under which they wouldn't.

Dr Purchase: There are certainly circumstances under which they wouldn't. We are very conscious of our ability to invest in those things which advance the interests of Ontario in science and technology, subject to the other conditions that constrain our investments. If, for whatever reason, the CFI was not interested in a particular project, that does not preclude us from being interested. However, again, whoever is coming forward to us for money has to have some other money at risk—not at risk, we don't risk money per se, but certainly other people's money funding the research.

Mr Crozier: I think the popular word today is "partnerships."

Dr Purchase: Partnerships. Ideal.

Mr Crozier: Back to the accountability question, to what extent does the board physically go about assuring themselves that the beneficiaries are spending the money the way it is intended and the way it was applied for?

Dr Purchase: We do have an audit process. Maybe I'll ask Dr McTiernan to—

Dr Tim McTiernan: There's a project contract process that speaks to the deliverables and the cash flow arrangements for interim payments which provides a tracking process. Then, as Dr Purchase said, the audit process would do the review at the end.

Mr Crozier: There would be another professional firm that would audit the beneficiaries' expenditures, just like the trust has its audited. Is that the case?

Dr McTiernan: I just want to confirm that with my colleagues, but I believe so. Yes.

Dr Purchase: If they're not doing what they agreed to do, then we have the power to cease funding.

Mr Crozier: Dr Purchase, I want to go back again to your role on the board, just to clarify that. When I ended my last round of questioning, we were alluding to Dr Stephenson. I take it you were saying you don't go in there, even as a deputy minister and a representative of the minister, and tell Bette Stephenson what to do.

Dr Purchase: Absolutely. I can guarantee you that—

Mr Crozier: That's why I said I understood, because of her background.

That was a way of assuring me—notwithstanding the fact that you can bring information to the board as to how the government feels, you have to weigh whether you are the ministry representative trying to direct the board or whether you're there for information. Or I suppose another role is you're there because you're interested in

seeing that the trust operates efficiently and effectively as well. Just to sum up, what you're saying is this board, with the membership makeup, including yourself, in your opinion can act as efficiently and effectively toward the objectives as any board would even if you weren't there.

Dr Purchase: I think that goes without question, I really do. My colleagues on this board are exceptional people and are totally dedicated, to a person, to the public good and the interests of the province, I'm absolutely certain of that, and contribute so much of their own time to this. As I said, they don't get paid. They can be compensated for expenses, whatever it takes to get to a meeting. There is no doubt in my mind that this is an effective device.

If I could go back to an earlier question you had about Auditors General in Canada, pointing to a particular issue with the creation of trusts, I can understand that, and I think as legislators you have to ask yourselves, "What do we do about it? Do we throw the baby out with the bathwater and say we never want trusts any more?" I think that would be unfortunate, I really do. As I said, I think we need accountability and governance as an ongoing kind of thing, where we can learn what we need to do next. What I think we need to do next is, we can have trusts with all of their benefits but we need to make sure we can find ways at the same time to satisfy the legislators' need for accountability.

The Chair: We're getting close to 12 o'clock. I understand there's unanimous agreement to carry on, unless you gentlemen have an objection to that, for maybe another half an hour, 45 minutes at most, and then there won't be any necessity for us to return this afternoon. Is that correct?

Mr Maves: Mr Chair, I don't want to prejudge Mr Crozier. He was speaking, so I couldn't talk to him.

The Chair: I guess you were speaking at the time.

Mr Crozier: That's fine with me.

The Chair: Ms Martel.

Ms Martel: Mr Christie, I want to return to some of the comments you were making with respect to the question that Mr Maves asked. Part of what you identified as a benefit was that for money that is not flowed, the trust can then gain interest on that money, but the flip side of that is, that is money that essentially the province loses and could use for other purposes. Correct?

Dr Christie: That's certainly correct and that is consistent with regarding the money as having passed to the trust at the time the commitment is made. It is then theirs to deploy as they see fit and for them to benefit from interest on unspent money, because the money has been passed to them for the purpose of being spent and invested in research and development. If it is spent later, there will be a little bit of interest, so they can spend a little bit more. But there's a very clear decision made in creating the trust that they would retain that interest and be able to use it also for investment and those purposes.

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Ms Martel: Can I ask you what the rationale was for the amounts that have been selected to be forwarded to

the trust? Is that something you can explain to the committee in terms of the \$750 million?

Dr Purchase: It's really much like any other budgetary process. You decide how much—the government has a priority list of things that it wishes to invest in, and ministers make the decision as to, "How much have we got? What's our budget? How much do we want to put into each one of these things?" It really is made on that kind of basis rather than—you know, it's not a corporation. We don't say, "Well, the rate of return on this would be X and the rate of return on that would be Y." Therefore, these allocations are made by the government according to its multitude of criteria.

Ms Martel: At the time the decision was made was there consideration given to the fact that clearly that was going to be money, then, lost from the consolidated revenue fund that the government might otherwise need? Mr Christie, you might like some of that money this fiscal year; you might be wondering if it was such a mistake to have that much transferred up front, particularly when the trust has just been established and you're relying, as I read it, predominantly on people to go to the feds first, then come to you. There must have been fairly clear recognition that you just weren't going to need that much money in the start-up phase.

Dr Christie: There was certainly recognition that money granted to the trust in this fashion was money that would stay with the trust. That's been clear from the start. I think, with respect to the pace at which the trust was funded, in addition to what Bryne has mentioned, the only other criterion that I'm aware of is the federal commitments to the Canada Foundation for Innovation. Bryne referred to a fairly substantial increase in money in the CFI and certainly, given the relationship between the CFI and the Ontario Innovation Trust, I'm sure that a factor in considering where the government would want the innovation trust to be positioned would be its ability to continue to work with and match the CFI.

Ms Martel: Would I assume that a specific analysis was done of the allocations that were being made at the time you were considering establishing this trust, a consideration of what the feds had already allocated and what they were likely to do if they had a pattern of an allocation over a couple of years? Was it that specific?

Dr Purchase: I can't recall exactly those calculations, but I do recall in general that, yes, we did ask ourselves, here's this federal money, which was X millions of dollars. We would hope that we would get—maybe we over-estimate how—the province of Ontario should at least get 40% of any federal money. That we don't is another issue, I suppose, but in terms of research excellence you'd think we'd even get more, quite frankly. In terms of research universities, we have a bigger concentration of research universities and of excellent researchers in this province than our share of the population or our share of GDP. I think we did do that kind of calculation; I don't recall what the numbers were, but I remember that they put their initial sum of money in

there, I think \$700 million, of which 40% is \$280 million, so we came close at \$250 million.

Ms Martel: That doesn't explain the second allocation, however.

Dr Purchase: Then it goes back to this other budgetary constraint. If they happen to have a lot of money available and they say, "Well, gee, why don't we put \$2 billion in?" it might be a bit of a stretch for us to have tried to keep our target at 40% of the federal money.

Ms Martel: The trust agreement itself, is it patterned after the federal agreement?

Dr Christie: I'm not aware of the answer to that question but I'll ask one of the architects.

Mr Sékaly: The Canada Foundation for Innovation was established not using trust law. They did it through specific legislation in the federal Parliament. In Ontario, we used the existing trust law. I'm not familiar with all the ins and outs of the CFI trust agreement or their legislation. What we use in Ontario is basic trust law, so what we have in the indenture for Ontario follows that pattern.

Ms Martel: So you could have organized this under legislation?

Mr Sékaly: No, what I'm saying is that the federal government organized theirs under legislation.

Ms Martel: And what I'm asking is, could Ontario have done something similar and actually established the trust but via legislation?

Mr Sékaly: I wasn't around at the time that the decision was made. The decision was made to utilize this vehicle as the vehicle for establishing the Ontario Innovation Trust.

Ms Martel: Does the fact that the federal trust comes under legislation provide any more accountability to federal Parliament?

Mr Sékaly: I'm not the expert. I believe that the Canada Foundation for Innovation provides an annual report to the federal Parliament.

Dr Purchase: If I may, to my knowledge, yes, I think they do provide an annual report. I think that the CEO has appeared before a parliamentary committee but I'm not sure which committee he would go to. But we could find that out for you.

To answer your question about, "Could it have been established in legislation?" I presume it could. If the federal government can create legislation, I'm sure that provincial governments have an equal capacity to create legislation. I'm probably speaking without really solid information, but I would assume they could. Does it create more accountability? Is that—

Ms Martel: That's exactly where I'm going. I was going to say, does the federal legislation make whatever minister—I wouldn't presume to know what federal ministries are involved—does that make that minister accountable to the Legislature for the activities of the federal trust?

Secondly, and I apologize to the auditor if you've already answered this, does that make the trust

reviewable by the federal auditor in terms of a value-for-money audit?

Dr Purchase: I'm assuming that a trust has to operate according to the conditions of the trust. It is a trust at the federal level, and therefore it is prescribed to do certain things and not others. It's a rather curious animal. It wouldn't be like any old federal program that's embedded in legislation, because of this notion of a trust. This is just from my own personal point of view, if I'm allowed to have one.

To me, it's a matter of, do you get more accountability to the Legislature in that federal model? If you do, is it possible to retain our own model but amend it in certain ways? As I said, this is not something that's not doable. The board of the trust is certainly open to something that would be equal to anyone else's model, if you like, in terms of accountability.

Ms Martel: Deputy, I want you to understand, I'm not here to undermine the board members or question their integrity. I'm curious about the political decisions that were made. If we patterned this after a federal trust but in fact a federal trust was done via legislation, which I would presume, and I say only presume, to provide for some accountability back to the Legislature and to make the minister accountable for the operations of the trust, why wouldn't we have done that in Ontario to try and guarantee the same level of accountability back to the Legislature, back to taxpayers?

Dr Purchase: I'm going back to my recollection of the decision-making. We did pattern elements of our trust on the federal trust; that is to say, those related to selection criteria and so forth. Obviously, since one of our purposes was to make sure that we could match CFI funding, we had to have the same criteria of what was an eligible investment. So there are elements that we have matched. We did not match legislation. I, myself, don't recall any conversation about legislation in that time. There was no discussion in my presence. I don't think I ever even knew the federal trust was embodied in legislation and wasn't identical to ours until a little while ago when this committee invited us to speak and someone told me how the federal program worked. I don't recall a discussion around what you're asking.

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Ms Martel: You said that the Ontario trust is patterned after the federal agreement, and I appreciate that. Does the federal agreement also have the proviso that the funds provided to or earned by the trust are available only to the beneficiaries, that if the trust winds down, money does not come back to the federal government, or was that something specific that Ontario put in?

Dr Christie: That is our understanding of how that functions. For example, the Canadian millennium scholarship fund functions that way. They're financing an extra year or so of scholarship delivery by the interest they earn. I haven't seen these financial statements for the CFI, so I couldn't assert 100%, but that's our understanding.

Ms Martel: Presumably, then, it's a legal document, and you have the ability to determine the terms and conditions of this particular legal document. What was the rationale on the part of the province of Ontario for having a similar proviso that says the money goes back to the recipients versus back to the consolidated revenue fund to be used for other programs etc by government?

Dr Christie: I'll ask Bryne to comment on this as well because I wasn't directly a party to it so I can't speak to it first-hand. My understanding of the principle is that we were making a commitment of a certain amount of money as at a certain time. In effect, like any endowment, we were endowing a function. Like any endowment, we would expect that the administrators of the endowment would be able to manage and deploy the interest as well as the principal for the purposes of the endowment. That's the common approach to administering those sorts of transactions. The philosophy behind this was to put a certain amount of resources into the hands of experts, subject to a government-determined framework and objectives, and to permit them to use their expertise to accomplish the objectives set out by the government. The approach taken was that of an endowment. As a result, all of the consequences of that follow, including retaining the interest for the purposes of the trust.

The Vice-Chair (Mr Bruce Crozier): Thank you. Unless you have some comments—

Dr Purchase: Actually, I have some additional information which we will confirm. In terms of how the CFI operates and its accountability to the Legislature, apparently, the federal Minister of Industry reports to the Legislature on the CFI but is not accountable to the Legislature. This issue of accountability has arisen with Mr Peters's counterpart at the federal level. The federal government doesn't appoint the board members. There is some other appointment process that's embedded in the legislation. Also, the federal Auditor General does not audit the CFI. Yes, they had legislation which is different than our model, but there are obviously some issues that are not different, perhaps.

The Vice-Chair: The government caucus?

Mr Maves: I guess this is kind of two-part. Mindful of the HRDC billion-dollar loss, the federal government fiasco that we went through, I only raise this for two points. The first is, the good news was that their auditor—it was an in-house thing, it was an in-government process, and because of that the auditor was able to uncover all kinds of irregularities.

The other reason I raise it, though—and therefore I'm betting that our committee will come up with some kind of recommendation about the auditor and the OIT—is that \$323 million of your awards are matching CFI awards. What I want to be assured of is that CFI, which is a group that the federal government sets up, come up with all these awards on their criteria, whatever their process is, and then you match it. What I'm a little concerned about with the HRDC in the back of my mind is, how are we being vigilant in making sure that these

matching awards that we're doing with the CFI are properly vetted awards, that they're effective, that they're in the long-run interest of Ontario?

Dr Purchase: We have our own audit process once we have made the awards, in terms that we can, as our trust agreement allows us to do, take someone else's scientific peer review as sufficient review, if you like. I'm trying to recall the specific instances of misallocation of funds under the HRDC. These are highly qualified, highly credible scientists in the peer review process. They are really, truly scientists. Because that's how they themselves are evaluated, they tend to evaluate their peers on the basis of the quality of their science.

I trust that process. We don't look behind it and ask, "Is there something else going on behind that scientific review?" That's fair enough. We do not do that.

I think that, again, our ultimate reassurance on this is that we do in fact follow up to make sure that monies are spent as they were described to us as being spent. That's what we can do. We rely then on that that particular project, that particular scientific project, had a solid basis in science to proceed.

Mr Maves: You answered my next question partly. When you follow up on the use of the grants, you follow up on the use to make sure that they were spent as they were intended to be spent, how do you measure the success of the awards? I know there's probably not many that have come to completion yet and so on, but is there a process, a plan to measure success of these expenditures?

Dr Purchase: You raised a good point of just exactly how we will, as a board, evaluate the success of our investments, if you like, of our decisions. Aside from the fact that people carried out the project that they described to us—that we can do—was it successful in some other respect? Did it contribute ultimately to increased knowledge or to some improved product, or did some other commercial benefit arise from that? That is something that I think we could legitimately ask ourselves in the future when we get to the point where projects are in fact being completed. As you can see, our actual flow of money to projects is well behind our commitment.

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Mr Maves: Which is my next question. What are some of the typical reasons for the delay? You say you've got \$430 million awarded but you haven't flowed that amount of money. So can you give the committee some of the typical reasons for delay in the actual flowing of the dollars to these awarded projects?

Dr Purchase: In part it represents just how much due diligence we do around these projects, because we have to be assured that others' money is actually there and we have to be assured that the researchers who were on the application to be involved are involved and so forth. So there are a number of things like that.

The other thing is, this is capital. So it does take time to acquire the assets or to make construction changes if that's what's needed, the planning process and so forth for undertaking that. But it is another reason to account for the delay between the commitment to do something,

that our money is there, and then making sure that the contract is nailed down and we are reassured that everyone else's money is there too and, as I say, just simply the physical delays of getting something like this going.

Mr Maves: Last, there are \$750 million that have been flowed to the OIT already. If the federal government through the CFI program flows more money that's going to accrue to Ontario, and in order to match their additional dollars with our 40%, if we can't do that with your existing resources, do you have the flexibility to say to the federal government, "Look, we can't fund all those projects at 40%; we'll fund them at 30%," or do you just have to say, "We can't fund them; forget it unless we get more money added to the fund from the provincial coffers"?

Dr Purchase: We can certainly fund the institution to a lower amount, but the federal government is constrained still only to fund 40%. So the institution would then have to go out and find other funding partners other than the OIT. Obviously, this is a difficult task for our universities and hospitals and other research institutions, because everyone is trying to do the same thing: basically find money to support research. In a period where the economy has slowed down, that becomes increasingly difficult for institutions.

The Vice-Chair: Any others in the government caucus? You have about seven minutes. No? OK, Mr Gerretsen.

Mr John Gerretsen (Kingston and the Islands): I have a few questions. Again, this isn't intended to disparage the board members or the amount of money that's going into research and development. We all realize it's important; there probably should be a lot more. The real question here is accountability. That's really what it's all about and it seems to me that the more agreements you set up, the more arm's-length bodies you set up, you're just taking the accountability aspect farther and farther away from the elected representatives of this province. That's the bottom line.

I assume that prior to this fund being set up there was research money flowing as well to individuals, and I take it that was done through the various ministries. Am I correct in that?

Dr Purchase: Yes, and of course there are other programs that in fact flow money, the Ontario research and development challenge fund, for example.

Mr Gerretsen: Right, and I can well understand how from the research and development community and from everybody's viewpoint the knowledge that there are so many dollars there and that there's a consistent program going over the next number of years gives them some sort of satisfaction or some sort of comfort level that they don't have to come begging for money each and every year. I can totally understand that but, on the other hand, setting up all these different mechanisms—it's like saying we don't give hospitals or boards of education any commitment that we're going to fund them at all next year and yet we all know that we're going to. Wouldn't

that same sort of principle apply here as well? Why do you need this arm's-length body, these trust agreements and things like that? I think to the average person it just means that the accountability level is further and further away from the elected representatives. Maybe you're not the people to answer this; maybe it's more of a political answer that should come from the minister or from cabinet. But do you not agree with that?

Dr Purchase: First of all, I think that these vehicles have benefits and that the benefits, as we indicated, are related to the certainty of funding that they create. I would even go a bit further and say that research and development is an area where that is even more desirable than, say, other government programming, largely because it's so intangible for most people. It's not like adding more money to a hospital emergency ward. It's something that's far enough in the future that it's easy to say, "You know what? There are too many other competing demands." It would be normal for an organization to do that. It's certainly done in the private sector.

Mr Gerretsen: But here we had a government that, in effect, spent \$750 million, and the auditor finds out a couple of years later that only \$119 million has actually been spent. To my way of thinking, that means that about \$600 million was put into a reserve fund to be used at some point in time in the future. There seems to be, to my way of thinking, a lack of accountability there. What kind of management fee does Royal Trust get on an annual basis, in managing \$750 million?

Dr Purchase: I'm sorry. I'm going to have to defer to my—

Mr Gerretsen: I'd be very interested in that. What's the total fee they take out of this?

Dr Purchase: Fifty thousand dollars.

Mr Gerretsen: That's all?

Dr Purchase: Yes.

Mr Gerretsen: I know I said "management fee." We're talking about total fees in everything.

Dr Purchase: I think that's all they do for us. That's all they do.

Mr Gerretsen: OK. That's less than I would have thought on an amount like that.

Mr Purchase, you're a board member as well, as you indicated. I realize that sometimes puts you in a delicate situation. Are most of the board decisions unanimous?

Dr Purchase: There is always discussion. I can't recall.

Mr Gerretsen: There are no votes taken?

Dr Purchase: No, no, there are votes, but I can't recall. It's a very vigorous discussion. If people find something that doesn't really make sense—again, if you look at the people on the board, they're not people who don't look at the deal.

Mr Gerretsen: But there are not too many 4 to 3 votes, and then it sort of carries by one vote as to whether or not a particular project should be funded.

Dr Purchase: I don't really recall that kind of contention.

Mr Gerretsen: I notice that \$430 million has been committed, and Mr Maves asked this earlier. How much has actually been spent, as of today? I realize all you can do is give me a ballpark figure.

Dr Purchase: In terms of the money that has actually flowed—my apologies. I don't have this.

Mr Gerretsen: From what you said earlier, if it's a large project, the money will not be given in lump sum payment, but it will be funded over a period of time, will it?

Dr Purchase: I'm sorry. I've got multiple conversations going on here.

Mr Gerretsen: OK, go ahead.

Dr Purchase: Roughly \$150 million has actually been flowed to the researchers.

I'm sorry, sir. I didn't hear your question when I was listening to—

Mr Gerretsen: I think that answered it. We've already heard about the difference between the federal situation and the way it was set up and your doing it by way of a trust agreement. I would suggest this is a very standard trust agreement. There's nothing all that complicated or difficult about that.

Under the federal legislation, from a comment that was made earlier, an annual report is to be filed by the minister, if I'm correct. Does the board intend to file an annual report as well?

1230

Dr Purchase: Yes.

Mr Gerretsen: Will it be timely filed? Many of the reports we get around here are sometimes for time periods that are three or four years in the past. This isn't a shot at the present government. I understand that it's been like that for years and years. We're getting reports now of situations in particular programs that finished in 1998, or what have you. I'm not sure what relevance it has today. Anyway, are you going to do it in a timely fashion, hopefully?

Dr Purchase: Yes, it's our intention to do that. We post everything on our Web site, all the information that would be in an annual report. We have had discussions about the whole notion of an annual report as a physical document. Many of us get hundreds of annual reports and then never read them. We have talked about how one makes sure that an annual report is simply more than, "Yes, we produce an annual"—

Mr Gerretsen: I can assure you that most of the members of the Legislature read these reports from cover to cover.

Do you know how the other board members are selected by, let's say, the hospital community, the university community and the community college community? Is there some sort of process in place there?

Dr Purchase: I think my colleague knows.

Dr McTiernan: Sir, I've just come from the college sector. I was president of a community college until a couple of months ago. The selection process in the college system involves a peer nomination process from among presidents, and that's what occurred in this

instance. I would assume it was similar within the university sector.

Mr Gerretsen: Finally—and I think there was some comment made about this earlier as well; I just want to make sure I have it correct in my own mind—do you actually internally audit the books of the organizations that you give the various grants to? In other words, what kind of reporting mechanism is there back to the board that these projects you're funding are actually being done? It's not as if I'm asking you to evaluate the results of the research, but how do you know it's really happening?

Dr McTiernan: Again, if I could speak from my understanding from an operational context, there are two levels of audit. There's a project audit that can be conducted. Institutional audits are made publicly available, whether they're university audits, college audits or hospital audits, which speak to the financial management and sustainability of the host organization or institution. There are two levels of audit information that are available for tracking and monitoring purposes.

Mr Gerretsen: Finally, Mr Purchase, since you are one of the key persons in this in all these various roles that you have in this system, I really implore you and your board to make this process, which I believe is flawed the way it is right now and it doesn't really address the issue of accountability the way I would like to see it, from the board's viewpoint as accountable as possible by providing not only us as elected people but the people of Ontario with full and updated reports as to what's happening, because it's an awful lot of money being spent there. Even as of today, out of the \$750 million, I take it only \$150 million has actually been spent. There's still an awful lot of money not being utilized for it.

If I could just ask one question, at various times it has been referred to as an endowment fund. We had some discussion about this earlier. It isn't intended to be an endowment fund, though, that only the interest on this money is being utilized, is it?

Dr Christie: That's correct, although it does have the characteristic of an endowment fund, that they retain the capital and the interest. It's there for the purpose of the endowment or the indenture, and the decisions are made by the board. Those are points of commonality.

Mr Gerretsen: The interest that you're earning on the \$600 million that you haven't spent right now presumably will be added on to the \$750 million so that in fact you'll have more money.

Dr Christie: That's correct.

The Vice-Chair: Just one quick kind of an administrative question from the Chair: what support staff does the trust have? How many people does it take to operate it?

Dr Purchase: The trust has an agreement with the Innovation Institute of Ontario. David, can you tell me what the support arrangements are? David Bogart is an executive of the institute.

There are basically five staffers with the trust directly and then there's a shared-services arrangement with other organizations that the Innovation Institute of Ontario is associated with.

The Vice-Chair: Members, how are we? We've finished our rounds of questions. I'll turn this over to the real Chair.

The Chair: Thank you very much for attending today. Was there any further documentation that was requested? I don't believe so. Thank you very much for being here today and good luck.

There is one issue. Apparently, there was a letter that was suggested on Tuesday. Did you want to deal with

this matter first thing on Monday? This is the letter to the Ministry of Consumer and Business Services. The committee wanted to take a look at the letter first. Maybe what we'll do is deliver it to the subcommittee members, and then we could take—

Interjection.

The Chair: All right, if you've got a draft for everybody, why don't we have a draft for everybody and we could take a look at it and make a decision on it on Monday, OK?

The hearings are adjourned until Monday at 10 o'clock.

The committee adjourned at 1237.

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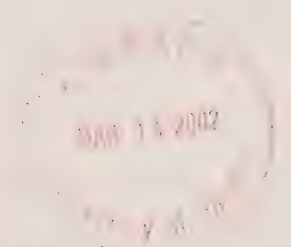
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Standing committee on public accounts

2001 Annual Report,
Provincial Auditor:
Ministry of Economic
Development and Trade

Comité permanent des comptes publics

Rapport annuel 2001,
Vérificateur provincial :
Ministère du Développement
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STANDING COMMITTEE ON
PUBLIC ACCOUNTSCOMITÉ PERMANENT DES
COMPTES PUBLICS

Monday 25 February 2002

Lundi 25 février 2002

*The committee met at 1037 in room 151.*2001 ANNUAL REPORT,
PROVINCIAL AUDITOR
MINISTRY OF ECONOMIC
DEVELOPMENT AND TRADE

Consideration of section 4.06, financial control review.

The Chair (Mr John Gerretsen): Good morning, everyone. I would like to start our meeting this morning. Thank you for coming.

This morning, we're dealing with the financial control review, which is a chapter 4 follow-up contained in the 2001 Provincial Auditor's report.

We have with us members of staff from the Ministry of Economic Development and Trade. Perhaps you could introduce yourselves, and if you have an opening statement, we'd be more than pleased to hear it. There may be some questions from the members of the committee afterwards dealing with the report or anything you refer to in your comments.

Ms Barbara Miller: I'll start by introducing myself first of all. I'm Barbara Miller. I'm the Deputy Minister of Economic Development and Trade. With me, I have Lee Allison Howe, who's the assistant deputy minister of corporate and field services; Diane Frith, who is director, business planning and finance; Jan Yousef, sitting in the back, who is controller, business planning and finance branch; and Gordon Aue, sitting next to me, who's the cluster audit director, Management Board Secretariat.

I'll just start into the presentation. The Provincial Auditor's 1999 annual report included a financial control review of the Ministry of Economic Development, Trade and Tourism. The report found a number of weaknesses in the ministry's financial controls. Then the Provincial Auditor's 2001 annual report included a follow-up report on the recommendations made in that 1999 financial control review. I'm very pleased today to report that significant corrective action has been taken on all of the recommendations made in that report.

First of all, just touching on the audit findings, I think there's a handout that should have been forwarded to you. The weaknesses identified in the finance branch's financial controls included payment processing controls for accountable advances, cheque-signing controls, accounts and payroll reconciliations, procurement

practices and computer processing controls. In addition to that, the report did identify the need to review the staffing of the finance branch to ensure that there were key financial control activities performed on a timely basis, with well-trained and knowledgeable staff.

I would touch on some ministry action that was taken prior to the audit. The ministry's senior management team had already recognized there were weaknesses in the finance branch and had begun to take a number of steps to address those issues. Additional staff was brought in to support key functions such as reconciliation, purchasing and accounts payable. The finance and business planning branches were merged to create a new branch, the business planning and finance branch, to strengthen both the resources and the financial capabilities of the staff. Finally, a branch review was initiated to address the longer-term need to strengthen our financial capabilities.

I would say that the Provincial Auditor's report was extremely useful to support the ministry's review of the branch and the corrective actions which needed to be taken to address the weaknesses that were existing.

Now I'll just touch on progress against each one of the recommendations that you should have in front of you. The first is around payment processing. The recommendations that have been implemented include enhanced manual cheque controls that have been established, including maximum dollar limits. All manual cheques, electronic funds transferred and deposits to advance accounts are recorded daily. The shared services bureau is monitoring to ensure prompt and accurate recording of cheques and electronic transfers in compliance with those dollar limits.

The second area was around cheque-signing controls. A new electronic cheque-signing machine with enhanced security features was installed. New cheque-signing controls and procedures were introduced to ensure that there was a segregation of duties and enhanced security over cheque stock. Staff have been trained on the new controls and procedures, and the shared services bureau is again monitoring to ensure compliance.

The third area was around advance account agreements and reconciliations. As was recommended by the Ministry of Finance, the signing of the advance account agreement is on hold pending the issuance of a new advance account policy which will eliminate the need for the agreement. We have been advised by Ministry of

Finance staff that the policy is in the final stages of approval and will be issued in the near future. In addition to this, we have redesigned the bank and central accounts reconciliation functions and assigned additional resources. There's been an elimination of the backlog of bank reconciliations, and monthly updates are being provided from the shared services bureau to ensure they're completed on a timely basis.

The fourth area was around payroll expenditures. We have worked with the shared services bureau to have payroll staff check input prior to payroll processing. Again, shared services bureau staff compare the pay list to the expected payroll and resolve any significant differences prior to processing. Discrepancies between pay and benefits, expense accounts and the Ministry of Finance records are being promptly investigated and resolved.

The fifth area was around procurement practices. Again, procurement policies and procedures were streamlined. Briefing sessions were held with senior management, line management and program staff to review procurement issues identified in the Provincial Auditor's report and reinforce their responsibilities related to compliance. Training sessions are being held on procurement, verifying and coding of accounts is occurring and procurement is being monitored to ensure compliance.

The sixth area was computer processing controls. Access within the financial system has been restricted by the shared services bureau. Segregation of duties between purchasing and payment processing has been reinforced and management approval is definitely required to process invoices not matched to purchase orders. Reconciliation with the Ministry of Finance records: all bank and central accounts reconciliations are up to date and outstanding variances are being resolved on an ongoing basis.

In the area of staffing, a new branch structure was implemented which addresses the issues identified in the Provincial Auditor's report. Jobs were redesigned, particularly accounts and reconciliation functions. Jobs were upgraded to reflect skills required. Additional staff were assigned to reconciliation and procurement, and staff training needs have been identified.

Subsequent to the audit, in June 2000, the financial processing and procurement staff of the ministry were transferred to the shared services bureau of the Management Board Secretariat, and service-level agreements for both finance and procurement have been signed with that bureau to document what services and what level of service will be provided.

Just to touch on one thing in terms of ongoing follow-up in our risk management strategy, we do have service-level agreements with the shared services bureau. The bureau is responsible for ensuring that adequate internal controls and quality assurance mechanisms are in place. The shared services bureau must provide an annual certificate of assurance that ministry accounts are accurate. There are also regular operational meetings between the bureau and the ministry staff to resolve any difficulties or

issues that might arise. Regular reporting is provided from the shared services bureau around reconciliations and any items that require corrective action. In addition, training is being provided to our ministry line staff with regard to procurement and consulting practices, the coding of invoices, this type of thing. Lastly, the audits of financial and procurement services will be undertaken to ensure there are appropriate controls in place and the ministry is complying with the agency directives.

I'll close there.

The Chair: Thank you very much, Ms Miller. We start the questioning today with the third party.

Ms Shelley Martel (Nickel Belt): I thank all of you for being here. It's clear from my read of it, and I did read the section yesterday, and also from what the auditor said this morning, that many of the recommendations were followed up on and you've been successful in overcoming the problems he has identified. So I don't have that many questions.

I want to get a better idea of how shared services work, but before I get there, one of the things I did note with respect to your advance account is that you now have a dollar limit—I believe the auditor said as high as \$100,000—for manual cheques. I was curious as to why it would be that high if the purpose of it is to pay employees who just come on an advance etc. What is the need to have a limit that is as high as that?

Ms Diane Frith: Sometimes it was for rushed grant payments we had that we had it that high.

The Chair: Could you identify yourself, please, for Hansard purposes?

Ms Frith: Diane Frith.

The reason the limit was \$100,000 was in the case that there were rushed grant payments. Sometimes there was a need to have the payments provided on a particular date to the recipient, particularly in the case of the Ministry of Tourism, where we had a lot of payments. That was the reason it was \$100,000.

Ms Martel: So with tourism now essentially being split from the ministry again, will that policy be revised? I'm just wondering under what circumstance now you would really need a limit that is that high.

Ms Frith: Occasionally it's for electronic funds transfer, rushes, things like that that are done, that we still have \$100,000. But certainly there aren't many cheques that large that go through the account, and usually the SSB calls us before they initiate any manual cheques.

Ms Martel: OK. I notice the auditor, in the original report, had noted about \$15 million in payments that were being made. Can you give us the figures for 1999-2000? I'm not sure if you would have 2000-01.

Ms Frith: We don't have them with us, but we can provide them to you.

Ms Martel: I'm going to assume that, as a result of having that pointed out to you, they were significantly lowered in the two fiscal years after that. OK.

With respect to finance, that will be a policy that will be applied government-wide. I am assuming every ministry has a similar account to draw on and the reason

it has been so delayed is because there are discussions government-wide about what it should look like.

Ms Miller: Yes. We were in touch with them after the audit asking to arrange to have a policy, and they said that they were reviewing the policy. We followed up very recently, and they have indicated that it will be forthcoming soon. But it has taken some time because it's government-wide.

Ms Martel: Let me ask you about your staffing. If I read the follow-up correctly, 17 of the 32 folks who were in financial processing and procurement were transferred to shared services.

Ms Frith: Eventually it was actually 18, and to procurement.

Ms Martel: Both financial processing and procurement. So 18 out of 32—

Ms Frith: Actually, it ended up being 33 in total now.

Ms Martel: In June 2000. Do you have concerns about the staff who are left in terms of their ability to do the job that they are still required to do?

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Ms Lee Allison Howe: I'm Lee Allison Howe, chief administrative officer. I'm confident that the staff we put in place have the skills to do the job. We have a chartered accountant as our controller, as per the recommendations from the auditor, and we've undertaken to hire appropriate staff for the positions and vacancies that we've had.

Ms Martel: Maybe I should rephrase this—my apologies. When those staff were transferred, do they become Management Board Secretariat staff? If that's the case, is their priority still to do work from economic development and trade, in terms of reconciliation and financial transactions?

Interjection: Yes.

The Chair: Could you answer the first question? I saw you nodding your head but we need some sort of affirmation for the record.

Ms Frith: The staff that was transferred provided services not just to MEDT, but they also provided services to the Ministry of Tourism and the Ministry of Intergovernmental Affairs. When they transferred, staff were designated to continue to provide services to those particular ministries in the areas of procurement, reconciliation, accounts processing etc. So yes, we are confident.

Ms Martel: So there's not a net loss of staff to do the same amount of work. In fact, although they were transferred, they continued to carry out work on the ministry's behalf in a different agency.

Ms Frith: That's correct, although the organization was reconfigured once it went over to the shared services bureau. It's not the set 18 that we'd sent over in that configuration. They've split off systems control from reconciliation, so it has been reconfigured. But the net amount is that we still get the same level of service.

Ms Martel: But that reconfiguration was not something you had any control over—that was Management Board?

Ms Frith: That's correct.

Ms Martel: In almost all of the areas where you have implemented changes, I note that the shared services bureau is performing a monitoring function in most of those cases. I have to admit I don't have a clear understanding of what the shared services bureau is doing, so I'd appreciate an explanation of that. What I'd also like to know is, with respect to when they identify problems that may be coming from the finance branch of your ministry, who is the employer? Who is responsible for dealing with either the staff person who may be having trouble etc when you identify a problem—because it wasn't clear to me, if they have the monitoring function, how far does that monitoring function extend in terms of employees in your ministry?

Ms Howe: I'll answer that. The service-level agreement spells out who's responsible for what and exactly what services are provided to the ministry. The accountability for the financial management of the ministry rests with the ministry. It's not delegated that we turn over our authority for management to the shared services bureau. However, we have a service-level agreement that requires them to meet certain standards, and we're monitoring that. They monitor for us, but we are responsible for making sure they comply with our agreement. There's a set of procedures to follow if there are discrepancies. If you do have any difficulties in resolving issues on the staff level, there's a set of who-talks-to-whom. You'd resolve it at the staff level if it's a day-to-day matter and if that's not resolved, then it escalates to the managers, it escalates to the directors, and then if it became a very serious matter, it would be the assistant deputy minister to the assistant deputy minister at Management Board responsible for shared services.

Ms Martel: Was the agreement itself created at the time the employees were transferred or was it in effect before that?

Ms Howe: There is an agreement done each year for the set of services that we require the shared services bureau to perform, so each year they're updated. In terms of the timing, Diane, could I refer that to you?

Ms Frith: Yes. The overall agreement between the ministry and the shared services bureau was signed in February 1999. The actual detailed agreements for finance and procurement were signed after the transfer. Finance was in October 2001 and procurements was in August 2001.

Ms Martel: So in both cases, in October 2001 and August 2002—

Ms Frith: That was 2001.

Ms Martel: —you would be renewing those agreements? It's those agreements, the one on finance and then the second on procurement, that have to be renewed annually?

Ms Frith: Yes.

Ms Martel: And they detail the services that are being provided by shared services to your ministry.

Ms Frith: Yes.

Ms Martel: Are they doing that for a number of ministries, for every ministry or—

Ms Miller: Every ministry.

Ms Martel: Is it the same set of services, by and large?

Ms Frith: By and large, yes.

Ms Martel: And then should I assume that other ministries as well were in the position of transferring staff to the shared services bureau to allow that to happen?

Ms Frith: Yes.

Ms Martel: When you talk about monitoring, if I just look at the two on the first page, payment processing and cheque-signing controls, where the shared services bureau is “monitoring to ensure prompt” etc, can you just give me an idea of what that entails?

Ms Frith: What they would be doing is making sure that SSB staff are actually recording the manual cheques and electronic transfers on a daily basis and also making sure they’re in compliance with the \$100,000 limit for manual cheques. So they’re actually monitoring their own staff, the management.

Ms Martel: So it’s not your own staff doing manual cheques any more.

Ms Frith: No. That’s correct. It’s SSB staff.

Ms Martel: Would that be the same for other ministries, that the shared services bureau is actually dealing with any manual cheques from any ministry?

Ms Frith: Yes.

Ms Martel: OK. So I should assume that it’s the same where it says, for example, on the next page under payroll, “staff also compare pay lists in advance,” and that has to be done before the cheques are actually sent to employees?

Ms Frith: Before the payroll is processed to send the cheques—before they initiate the payment of the payroll.

Ms Martel: And then in each of these cases, just tell me again what your ministry’s response is to verify their work. I gather that is also part of this agreement.

Ms Frith: We do that through meetings with them, through receiving reconciliation reports, through identifying any problems, through following up with SSB. They’re actually the production side. They process procurement; they process the payroll; they process the accounts. So any time we identify a problem, we follow up with them. We have regular operational meetings with them, we get reports from them, and we get reconciliation reports from them to verify that the reconciliations have been done. That’s how we follow up with them to make sure things are happening.

If something happens and they identify a problem with a particular transaction, they call us and negotiate with us on how to resolve it.

Ms Martel: That was going to be my next question. Say it’s a procurement issue. A service was obtained and you’re not clear that it was completely rendered and you want to have that checked before payment is processed. Then it would be up to your staff to make those inquiries. Is that true?

Ms Frith: Run that past me again.

Ms Martel: If it’s a procurement issue, for example, a service that the ministry contracted—let’s use one of the ones the auditor used, which was advertising. If there has to be assurance that all of the advertising was actually provided, would it be your staff, then, doing that before the payment is processed by shared services?

Ms Frith: That accountability is with the manager who is signing off on the payment, to be assured that the advertising has been provided before the payment is initiated to the company—the program manager.

Ms Martel: The program manager in your ministry.

Ms Frith: The program manager is accountable for ensuring that a service has been provided no matter what the service is. They should not be signing off on the payment if the service has not been provided. So that’s not SSB’s responsibility. It’s their responsibility to check that the appropriate signature is on the invoice before they process it.

Ms Martel: So that’s the level of their responsibility on procurement.

Ms Frith: On procurement, they’re to identify if there’s any non-compliance with ministry policy. For example, all consulting over \$100,000 must be signed off before you initiate the procurement by the CAO, the assistant deputy minister of corporate services. It’s their responsibility to make sure that signature is on the request for procurement before it’s initiated.

Ms Martel: And that all the steps have been taken.

Ms Frith: That’s correct.

The Chair: Thank you very much. Just a question as a matter of information before I turn it over to the government caucus: where are the people physically located within the shared services board? Are they still within the ministry, or is there one shared services board for all of the government ministries? Are they located in finance? Where are they?

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Ms Frith: Actually, they are located in a number of sites, so staff have moved. Before the staff transferred to the shared services bureau, the staff were located at 56 Wellesley. We have ministry offices in that building, as well as at 900 Bay, in the Hearst Block. After the transfer, some staff were moved but there still are some core finance staff at 56 Wellesley. So the staff have been relocated to various shared services bureau sites.

Mr Raminder Gill (Bramalea-Gore-Malton-Springdale): First of all, thank you for coming here this morning. We really appreciate that.

It appears that most of the concerns have been addressed. My concern is also on manual cheques. Any idea how often those are issued or how often the money is advanced in that fashion?

Ms Frith: I’m just trying to think. One thing we did after the audit was discourage manual cheques. We have asked the accounts staff to issue manual cheques only where there’s a real urgency. Sometimes before, if somebody, for example, was going to go on a trip and they needed an advance for the trip, they would wait till the

last minute to do it. We've told the staff that's not a good reason any more and to really tighten the reasons for issuing manual cheques. So the number has gone way down. I would have to check the actual number for you, but I'm sure there's no more than a few manual cheques a week now.

Mr Gill: My concern is that perhaps there should be some kind of handle on what type of cheques they issue. Just because somebody procrastinates and does not supply their estimate of the advance they need soon enough is not a good reason for them to allow—is there a level as to at what point in the hierarchy one can issue the cheque, up to \$100,000?

Ms Frith: The cheque has to be authorized by the appropriate manager in the ministry, so a director would have to sign off on a request for an advance account cheque for one of his or her staff. If it was a director, the ADM would have to sign off, and if it was an ADM, the deputy would have to sign off.

Mr Gill: My second question is more general between the other ministries. Perhaps Erik can shed more light on that. Is there a universal type of procurement policy that we have or does every ministry run on their own? Who can answer that?

Mr Erik Peters: We can both answer. The Management Board of Cabinet directors are very explicit in approval level processes to be followed. They are quite good, actually.

Mr Gill: So there is a standard procurement procedure?

Mr Peters: Yes, for the relevant party.

Mr John Hastings (Etobicoke North): I have a question for Deputy Miller. How has the improvement or the settlement of this exercise—getting all the reconciliations, invoices and all the traditional bookkeeping in line—affected the ministry's delivery of programs or inhibited it, from 1999, in terms of getting on with the job of the economic vitality of the province?

Ms Miller: I would say that it has improved our ability to get on with the job. We were in a situation that I wouldn't like the ministry to be in again. We had gone through some major restructuring. In addition, the Ministry of Tourism had just been incorporated back with the Ministry of Economic Development and Trade. When you are in the middle of consolidating, sometimes you're focusing on the consolidation rather than your program areas. I feel much more confident now and I know our program areas feel much more confident that we have the controls in place.

With shared services bureau involvement, we've been focused as well on service levels. As well, I think over time our program areas are going to see an improvement in service levels in terms of getting cheques paid and financial controls in the system, in our program, so people can focus on program delivery, which is therefore—

Mr Hastings: Good point. To what extent, then, was there a mis-focus when you had the old financial controls in place prior to 1999 in terms of people doing their jobs

and having to go and get a cheque late or early, or whatever all the details were?

Ms Miller: I don't know if I would describe it as a mis-focus, but I think our staff—

Mr Hastings: More time on the internals than on the program output.

Ms Miller: Yes, and I think our finance staff—we were rushing to fill some positions, restructure, upgrade and train staff as well. So I would say certainly our finance area was moving very quickly and we could certainly improve what we did there, which we've acted on. I think our program staff have a much better appreciation now. We have done some very good training with program staff around procurement directives and policies and what they're responsible for as well.

Interjection.

Ms Miller: Yes, right. It was just pointed out that one of the things that program area staff were concerned about is prompt payment of invoices to suppliers, people they have contracted with, and so this is only going to improve that, for example.

Mr Hastings: Do you have any—and I don't know if you want to answer this question, or how long you have been deputy over at economic development and trade.

Ms Miller: I will have been deputy two years in March at the Ministry of Economic Development and Trade.

Mr Hastings: This is a question not directly related to financial controls, but I don't know if you wanted to try to respond to it. Can you give us any sense as to the interaction between the economic consultants or your trade consultants by sector or by region? What kind of relationship is there between the trade counsellors in the embassies abroad and economic development and trade? Do they tend to help Ontario, or are they mainly neutral? What's going on out there? Because I can't get a feel for it.

Ms Miller: Right. Trade and investment are two of our core businesses within the ministry in terms of trade development and investment attraction. Our staff work very closely with staff in embassies and Canadian consulates abroad. I think it's an area that we want to improve our working relationship in to get more productivity from both, and we're trying to sort through priorities with those. It depends very much on location as well.

Mr Bart Maves (Niagara Falls): My first question is a broad one. I noted that in the Provincial Auditor's report he said that in your ministry \$40 million was spent for staff salaries and benefits, and \$76 million for other direct operating expenditures such as supplies, services and equipment. Does that show a large amount of money spent on advertising and contracting out for services? Normally in many ministries, especially if transfer payments are removed, most of your budget goes to staff salaries and benefits, so I am wondering what that \$76 million represents. These were his 2000 figures.

Ms Miller: What I'm reflecting on is, that included the Ministry of Tourism, and I'm trying to reflect now on

challenges and, therefore, new procedures, new relationships, new orientations and all that kind of thing. So I would say this would not be an easy ministry. In spite of being a relatively smaller ministry in terms of its dollar size, it plays an important role. But it would not be easy to manage.

I used to be Minister of Government Services at one point, so I worked quite closely with Management Board. Of course, Management Board subsumed, or took over, government services. I would have thought that, at this point, Management Board would really have a good handle on system-wide systems that were helpful, provided guidance, were streamlined and all this kind of thing. But I suppose I'm learning that big government—and I consider the Ontario government to be big government—just continues to find ways to add procedures and steps here, there and everywhere. In spite of that, in the discussion we had earlier, I'm surprised at the continual struggle between ministries and Management Board as to who is really in charge here and who has what accountability.

So I want to ask you this—and I appreciate the report you provided to the committee this morning. In most instances, the shared services bureau has a particular role in payment processing, cheque signing etc. I see the emergence of this, as you identified it, third party-by-agreement group that will provide the follow-up and feedback to, presumably, the ministry and presumably also Management Board itself—because it would seem to me that it should have some overall sense about how all this is working. But in terms of procurement, in here it stated—and as deputy minister of the ministry, of course, you talked about it in terms of “just the ministry.” I didn't see anything in here saying the ministry is complying with the stringent directives and rules and regulations that are provided to all ministries by Management Board, but would that be fair to say?

Ms Miller: Yes. Obviously, as the Provincial Auditor said, there are very clear directives from Management Board. One of our goals—I think I referenced this at the end of the presentation—is that we intend to do follow-up audits on both areas to ensure that both ourselves and the shared services group are living up to our commitments.

Mr Patten: Just following up on a question Ms Martel asked, I'm not sure I heard whether you felt you lost staff in the transfer of staff to this service management board or not.

Ms Miller: I'll let our director of finance answer.

Mr Patten: But I thought you said that something like 18 staff were transferred over, and in spite of that, you feel you didn't lose staff.

Ms Frith: We feel that the same level of service that we were getting when the staff were part of the ministry will be provided.

Mr Patten: Even though they would have a bigger job and would be doing things for other ministries?

Ms Frith: Yes, but when they've reorganized—in fact, we now have other people who are available to us

within shared services, over and above the staff we transferred. So overall the same level of service is being provided.

Mr Patten: OK. So there's a larger pool. Other than the 18 you had, there's—

Ms Frith: I want to emphasize that the 18 we transferred are no longer that 18 in the same configuration. They've been reorganized. The procurement staff, for example, went over as one group. One of the procurement jobs is now reporting to a manager who's responsible for consulting services. Another procurement officer is now reporting to a manager who is responsible for buying supplies and equipment, the actual acquisition of that kind of service. So the organization has changed, but the same level of service is being provided.

Mr Patten: So you contributed 18 to that; 18 to—what's the bigger pool of staff?

Ms Frith: We've heard 1,500, overall, are at SSB.

Mr Patten: OK, so you now have access to more people to provide that arrangement, and other ministries would as well?

Ms Frith: That's correct.

Mr Patten: We'll have to take a look at this one, I think, Mr Chair, as to the emergence and development of the shared services bureau. I make no judgment on that, just that this is pretty significant; I mean, it's three times the size of your staff in your ministry. So it would seem to me that one of the things we should take a look at is, what is this new emerging giant that's coming along?

Anyway, I'll pass it over to my accountant friend, Mr Crozier.

Mr Bruce Crozier (Essex): I'll get a plug in: your certified general accountant friend, as opposed to a chartered accountant, as I think was mentioned earlier. But I'd expect a chartered accountant to recommend a chartered accountant.

Good morning. In the handout that was given to us, under the Provincial Auditor's recommendations for cheque-signing controls, I just want to clarify something. It says, “The ministry should ensure that ...,” and then it gets down to the issue: the keys to the cheque-signing machine are in the possession of two different individuals. What ministry are we speaking of? Yours?

Ms Frith: At the time, it was our ministry; it's now the shared services bureau.

Mr Crozier: Now it's not. OK. That's one of the things I wanted to clarify: that the new cheque-signing machines, with enhanced security features, were installed in the shared services bureau.

Do you have any idea how automated these cheque-signing machines are? In other words, does it spew out many cheques at a time or individually?

Ms Frith: It spews out—I'm assuming; I haven't actually seen it in operation. Let me just check with Jan Yousef. I assume, Jan, it will spiel out as many as you order? Yes.

Mr Crozier: Yes, as many as you order.

Ms Frith: There's also an electronic signature on it when it comes out.

Mr Crozier: This may go to a future date when we look at this shared services bureau, but I'm always curious as to what value a machine is, other than being able to do it more quickly, if someone doesn't look at the individual cheque. I can appreciate that if the shared services bureau is printing probably tens of thousands of cheques a year, we can't quite do that on an individual basis, like we used to do.

Ms Frith: This actually is for our manual cheques, so it is not producing a lot of cheques. It's actually only the manual cheques. It's a very small machine.

1130

Mr Crozier: From what you know about it, the very small machine may not be spewing out thousands of cheques but may be doing them almost one at a time.

Ms Frith: One by one, as they're requested. But if someone comes along and requests two or three cheques at once, it would produce the three or four cheques. It does not produce thousands and thousands of cheques.

Mr Crozier: In the area of electronic payments—and it's becoming more and more evident every day that many of us do our own banking electronically—from your knowledge of how payments are made, is there less paper involved in processing payments from the invoice or maybe even from the procurement point on? Are we using electronics more?

Ms Frith: Yes. However, it's still a relatively paper-intensive process at this point in time. With the introduction of the new financial system that the government is implementing, it will become much more electronic. Purchasing will go on-line as well as payments.

Mr Patten: We were supposed to be paper-free by 2000.

Ms Frith: No. It's still a relatively paper-intensive process.

Mr Crozier: I'm inclined to agree. It seems to have created more paper rather than less, for some reason or another.

Internally in the ministry, when it comes to payroll, and, Deputy Minister, I'll ask you: you have how many employees?

Ms Miller: We have 370 employees.

Mr Crozier: I wouldn't expect that you would know each one personally, but when it comes to payroll control, is there a point where cheques, rather than being deposited electronically and a stub being received in the mail the way mine is—is it the same way in your ministry, that many of the employees receive transfers electronically and have just a stub mailed to them?

Ms Miller: Yes, that's correct.

Mr Crozier: Is there any process where you occasionally determine that somebody really exists who should get that cheque?

Ms Miller: In terms of a monthly cheque—

Mr Crozier: Whatever. How do you assure yourselves of that?

Ms Howe: There is a reconciliation on a monthly basis of all the payroll lists with every name. It's divided by branch, and each manager is responsible for signing

off and looking for any discrepancies or problems on the payroll list. It does list employees by name and all of the salaries so that it can be signed off and ensured that it's accurate.

Mr Crozier: Maybe this is old-fashioned, and maybe the auditor will have some comment, but when it's all done so automatically, I just wonder when anyone ever actually delivers a cheque and sees that there's a person there who takes it. I think the auditor perhaps knows what I'm getting at. May I ask the auditor? Do we do that kind of physically? I'm going back to my old internal audit days when, as an independent body, we used to walk around at the H.J. Heinz Co and hand the cheque to somebody to make sure that at least there was somebody there to pick it up and that it wasn't one person picking up two.

Mr Patten: That was 50 years ago, by the way.

Mr Crozier: Get out.

Mr Peters: Then we are very old-fashioned. In my office, people have to pick up their paycheque at the receptionist's and sign for it. So we have a signed list of people who have actually received the cheque and were paid and that we have the cheques.

Mr Crozier: I gather that maybe we don't do this much any more, that it's very automated, and we rely on managers. But then again, it's usually that the smaller the area and the more trusted the persons, the more likely you are to have something like that happen. But I understand. I rely on my laptop every day, more so than I ever did before, so I understand that.

The Chair: Was there a question in all of that?

Mr Crozier: No, there wasn't. I just wanted to point out that things are different, and I understand that.

Mr Peters: I don't want to take anybody's time allotment. This question is really for Gordon Aue, who is here representing internal audit. At the time that we did the audit we were concerned that internal audit had actually found many of the things that we found and reported them previously, that action was not taken. We noted that. I know you've changed portfolios slightly, so can you tell us a little bit about the audit coverage of this ministry and your reaction to the reports?

Mr Gordon Aue: Gordon Aue. Yes, I've worked with Diane and her people a lot on your report and on the things that we found in our other previous audits. I can say that they've acted on all of the findings that we have to date. There's an ongoing improvement, and we are working now on how SSB and the ministry interface. It will be sort of taken care of. Those are ongoing things that are developing or evolving, but overall, all the controls have improved over the last few years.

Ms Frith: Also, we're working with Gordon because what we're going to do every year is do spot audits. You don't do a full procurement audit, a full accounts audit every year. What we're going to do at the end of each fiscal year is spot audits on payroll, on accounts processing, on procurement, on travel claims etc, just to give us an assurance that things are OK.

Mr Crozier: I do have one more quick question, and it goes to the accountable advance agreement, which again, according to this, would have been back in 1999 when it was first brought to your attention that it should be signed with the Ministry of Finance. Then more recently we have said the status is that the Ministry of Finance suggested it not be signed because we're going to have a new one and it's going to be in the near future.

I'm always interested why you don't sign the one that's in place, at least, so that if the one that's going to replace it takes a little longer than we thought it should, you at least have something there. You may want to comment on that. You were taking the advice of the Ministry of Finance, so I'm not necessarily criticizing you, but if there is an agreement there, why not sign it, then we'll deal with the new one when it comes along?

Ms Miller: We did have an agreement in place which we felt applied to the ministry. In fact, there were three ministries being covered. We since then took the advice that in fact it only applied to one, but there was the model of an agreement signed. The Ministry of Finance had indicated to us that they were working on the new policy and didn't feel it was necessary until they had the new policy. So they'd advised us to wait, which is what we did.

Ms Martel: One final question: is there a template available for the service-level agreements? Could we just get a copy of perhaps the one for finance? I should assume that it would be primarily the same for other ministries as well in terms of the services that are listed that are performed by shared services staff?

Ms Miller: I would assume that we can confirm whether it is or it isn't.

Ms Martel: All right. That would be great.

The Chair: Can you provide us with a copy of that?

Ms Miller: We'll follow up on that and we'll bring it back to the committee.

The Chair: Fine, thank you. Any questions from the government members?

Mr Garfield Dunlop (Simcoe North): Just a quick question. I'm not sure you can answer this right now. I'm curious about Ontario Exports. When you're trying to attract investment in Ontario and you come across corporations which may be foreign-owned but they may already have another main office somewhere else in Canada, do we do anything to try to attract satellite offices and satellite production in Ontario from those offices? That's sort of interprovincial but it's also Ontario Exports.

Ms Miller: The majority of our investment comes not necessarily from other provinces in terms of investment, but from multinationals, for example, that are already located here and we win new product mandates. We have a major investment program focusing on five other countries, but we also focus on businesses that are already here. We have met certainly with head offices in other provinces if they have a major investment in the province or we think there's an opportunity, but generally speaking we don't see the competition for investment so much being other provinces as it is the US states or other countries.

The Chair: Anyone else? Any questions?

Thank you very much for your attendance here this morning. We appreciate your comments and the fact that most of the recommendations made by the auditor some two years ago have been implemented by the ministry. Thank you very much.

With that, we'll recess the public portion of this meeting. There are a couple of other issues that we should deal with after we've recessed.

The committee continued in closed session at 1140.

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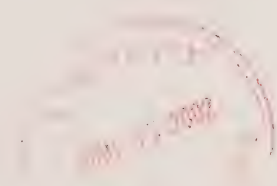
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STANDING COMMITTEE ON
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Tuesday 26 February 2002

Mardi 26 février 2002

The committee met at 1036 in room 151, following a closed session.

2001 ANNUAL REPORT,
PROVINCIAL AUDITOR
MINISTRY OF AGRICULTURE,
FOOD AND RURAL AFFAIRS

Consideration of section 3.01, food industry program.

The Chair (Mr John Gerretsen): I'd like to call the meeting to order. Today's hearings deal with section 3.01 of the 2001 Annual Report of the Provincial Auditor, dealing with the food industry program. I would like to welcome the delegation from the Ministry of Agriculture, Food and Rural Affairs, including its deputy minister, Frank Ingratta. Welcome, sir. Perhaps you could introduce the other members of your staff and then you will be given an opportunity to make an opening statement, to be followed by questions from members of the various caucuses. Good morning.

Dr Frank Ingratta: Good morning. Thank you, Chair. On my right, I have Don Taylor, who is the assistant deputy minister for the food industry division, the division that was reviewed by the Provincial Auditor that resulted in this report. On my left, I have Dr Tom Baker. Dr Baker is the director of the food inspection branch within the food industry division.

If I might then begin the presentation, I want to thank the public accounts committee for this opportunity to review the Provincial Auditor's report on our food industry program. As you will know, the report focused primarily on the issue of food safety. I too will focus on that issue and provide an update on our food safety system, detailing the steps the Ministry of Agriculture, Food and Rural Affairs has taken to ensure the safety of food products grown and processed in this province both prior to and during the audit process and since receiving the report of the Provincial Auditor.

The ministry's overall goal or vision is to position Ontario as an innovative world leader in responsible, sustainable and environmentally sound agriculture, food and rural development. We work in partnership with the agriculture and food sectors and Ontario's rural communities because we know that is the most effective way to move ahead, and we are making significant progress on many of the issues facing our agri-food and rural sectors.

We have, for instance, consulted extensively with farm and commodity leaders to develop a more effective risk management approach for Ontario's primary producers, which we are now negotiating with the federal government. We are delivering economic development initiatives, again developed in consultation with our partners in small-town and rural Ontario, designed to address the unique barriers to growth faced by small communities. And we have, following discussions with all sectors of Ontario's food industry, already introduced many enhancements to our food safety system and laid the groundwork for a strong, science-based approach to further improve that system in Ontario.

First and foremost, it needs to be said that Ontario's food is safe. There will always be room for improvement in any system, and we are continually enhancing our safeguards, but the fact of the matter is that Ontario is a world leader in food safety.

It also needs to be said that ensuring the safety of our food supply is a responsibility shared by many parties. We are only one, but so too are the federal government and other provincial ministries, the municipal governments, farmers, food processors, distributors, retailers and, I must add, consumers. Ultimately ensuring the safety of our food supply is everyone's responsibility.

The federal government is responsible for food processors that export their products to other provinces or countries. It also has responsibility for inspecting imported products. The province is generally responsible for goods produced and sold within Ontario.

To give you an idea of the sharing of responsibility, more than 85% of the animals slaughtered in Ontario are inspected by the federal government. In contrast, fully 80% of the milk processed in Ontario falls under provincial jurisdiction. At the municipal level, public health units are responsible for non-slaughtering meat plants, the restaurant industry and retail outlets.

The goal of our food industry program is to manage food safety risk in Ontario's food industry, to protect consumers and to enhance market access and industry competitiveness. To achieve that goal, in fiscal 2000-01, the ministry's food industry program spent a total of \$20 million, employed 110 staff, and engaged 131 inspectors on a contract basis. The ministry's total expenditure for food safety is well over \$30 million, given that other divisions within the ministry also play a role in providing

the Ontario consumer with safe, high-quality food products.

The objective of the audit conducted by the Provincial Auditor and staff was to assess whether adequate procedures were in place to ensure compliance with legislation, policies and procedures; to ensure that resources were acquired and managed with due regard for economy and efficiency; and to measure and report on the effectiveness of the food industry programs. Thus the breadth of the audit was extensive, including an examination of not only our endeavours to enhance our food safety system but also our work to improve the competitiveness of Ontario's agri-food industry, to attract new investment, to deliver our regulatory programs and to enhance market access to markets for the sector's products. We take it as a positive sign that in his final report the Provincial Auditor made very few recommendations regarding our programs and policies as they relate to enhanced competitiveness and improved market access.

I would also like to point out, as did the Provincial Auditor, that although the audit itself was conducted between October 2000 and March 2001, the report was not released until November 2001. The data gathered by the auditor and his staff do not, therefore, reflect much of what has been achieved in the last 18 months. For instance, at the time of audit we were in the process of conducting an exhaustive review of Ontario's food safety system in conjunction with the Ministry of Health and Long-Term Care and the Ministry of Natural Resources, and in consultation with our stakeholders. Among the results of that review were numerous changes to our inspection system, improvements to our information management system, and the drafting of new legislation, the Food Safety and Quality Act, 2001.

That, then, is the context of my remarks for this committee.

Let me first say that the ministry welcomed the report of the Provincial Auditor and its thorough review of our food industry program. We view it as an opportunity to further improve the efficiency and effectiveness of our programs. We are gratified that Mr Peters told us that he felt the report he was presenting to the Legislature was, on balance, a good report. Mr Peters acknowledged in his conclusions that the ministry had proactively engaged in a number of initiatives to protect consumers from food-borne contaminants and to reduce food safety risks during and following completion of his audit. The Provincial Auditor also stated that the ministry did ensure that resources were acquired and managed with due regard for economy and efficiency, and indeed noted that we have implemented a number of strategies to accomplish more with the resources allocated to us.

Mr Peters also concluded that there were certain shortcomings in our food industry program. We appreciate the auditor's insights and recommendations because they will allow us to enhance our ability to ensure Ontario consumers are provided with safe and high-quality food.

As I mentioned, in conjunction with the Ministries of Health and Long-Term Care and Natural Resources, we

conducted an extensive review of Ontario's food safety system over the last two years. This review was well underway when the Provincial Auditor started in October 2000. It is a source of pride to have the auditor confirm that we are on the right track.

Mr Peters made 32 recommendations. The ministry accepted and acted on all of them. It is worth noting that those recommendations are consistent with the improvements that we have already put in place and with those we continue to work toward. I would say "worth noting" because what is truly important in matters of food safety is the system that is in place today and the enhancements that we will make in the future. The food safety system of a year ago or two years ago or 10 years ago is significant only as a benchmark. It provides a reference point against which to measure our accomplishments. With that in mind, I'd like to speak to the food safety system currently in place in the province.

On December 5, 2001, the Food Safety and Quality Act received royal assent. This new legislation is key to addressing the Provincial Auditor's overall conclusion, which was that "the ministry needed to improve its efforts to ensure compliance with legislation, policies, and procedures by addressing weaknesses in its licensing and inspection processes." The Food Safety and Quality Act will in fact do much more than that. It allows us to put in place a science-based, seamless system that reaches from farmers' fields to the consumer's fork.

Let me explain what that means: first, a system based on science.

The Provincial Auditor pointed out that some bacterial, chemical and other recently recognized hazards to health are not readily detected by traditional inspection methods, which rely on the senses of sight, touch and smell to detect disease and contamination. While these traditional inspection methods remain essential, we are increasingly using scientific methods to complement them. That's why the ministry has increased its complement of scientists and technical support staff. We have in the last 18 months created and filled 37 positions to further enhance our food safety system. We have also adopted new technologies to sample and test food products. Specifically, we have improved our risk-based processes for random and targeted sampling for chemical residues in meat, we have completed microbiological baseline studies on hog and beef carcasses, and we have initiated on-site testing in our larger cattle and hog plants.

Of course, meat and meat products are not the only foods that we produce and consume in Ontario. We have completed risk assessments on 10 horticultural products, including sprouted seeds, lettuce, stone fruits and grapes. We are currently conducting baseline studies on fresh cider and are developing a prototype risk-monitoring program that will serve as a model for other commodities. In addition, we have enhanced the protocols to formally advise growers and retailers of fruits and vegetables of any laboratory results which indicate chemical residues above the limits set by Health Canada. Staff are

also designing a risk-based monitoring and inspection process for Ontario-grown foods of plant origin.

We are collecting immense amounts of data, which we feed into a sophisticated, computerized information management system that allows us to make more informed and more timely decisions, tracks the progress of corrective actions and alerts us to required actions. This allows us to address specific recommendations that Mr Peters made regarding the timely correction of deficiencies and ministry intervention as required.

In this area too we have already made significant advances. We have completely revised the abattoir audit system and the plant rating system and streamlined the standards of compliance. We have developed guidelines for acceptable time frames for abattoirs to take corrective action. We have in place specific criteria for the suspension of abattoir licences and the imposition of penalties.

We recognize that we need to enhance our efforts when it comes to dead stock inspection. Through a careful reallocation of resources, we were able to create and fill a new position to coordinate the dead stock inspection program. In addition, we hired a consultant to recommend a risk-based inspection program and any required changes to the legislation governing dead stock.

The ministry also completed an internal review of the raw goat milk quality program, and through the services of another consultant we are conducting a thorough audit of the raw milk quality program of the Dairy Farmers of Ontario.

The second key element of our current food safety system is that it is seamless. Through our review of Ontario's food safety system, we identified gaps and then worked with our partners at all levels of government and industry to determine the best means to address those gaps. We have refined our working relationships with industry and municipalities, with other ministries and with the federal government to more effectively coordinate our efforts to provide Ontario's consumers with food that is second to none when it comes to safety and quality.

The third key element of our food safety system here in Ontario begins on the farm and extends right through to the consumer's fork. That's an important point. The safety of our food cannot be ensured solely by licensing inspection. Let me repeat, because this is an important point and I want to take a moment to elaborate on it. The ministry has strongly been criticized for reducing the number of inspectors. On the surface that is the case, but we have not reduced the number of inspections. Any time—every time—an animal is slaughtered at an abattoir that falls under provincial jurisdiction, an inspector is there. The slightly smaller contingent of inspectors is largely the result of a more efficient, more effective use of our resources. Efficiency, by the way, was noted in the Provincial Auditor's report. It also results from advances in technology and testing that allowed us to introduce new science-based systems and protocols that complement and build on inspections. Finally, it is the result of increased efficiencies in slaughterhouses themselves and

the fact that some small meat plants have closed and some larger abattoirs have moved to federal inspection.

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The changes to our inspection system also grew out of our understanding that to truly ensure the safety of our food we must identify potential hazards at every point in the food chain and to take steps to minimize their occurrence. One way to do this is to adopt an approach known as hazard analysis and critical control points. You might often have heard the term "HACCP."

The ministry is assisting many other Ontario commodity groups and organizations to implement on-farm HACCP-based food safety systems. The dairy farmers, for instance, will have such a system in place on the province's more than 6,200 dairy farms by 2004. Ontario greenhouse vegetable growers have already implemented this type of program. The Ontario cattlemen are working to develop an on-farm food safety program known as Quality Starts Here. In many cases, the ministry is sharing the costs of developing these programs through the Healthy Futures for Ontario Agriculture initiative. To date, we have committed \$8.8 million to these and other food safety projects.

We are also working in partnership with the federal government and consumer associations to foster greater awareness among consumers of their very important role in ensuring the safety of the foods they eat. The FightBAC! program is an example of this. FightBAC! is short for "fight bacteria."

Ontario consumers can be assured that there is a minimal risk associated with food produced and processed in the province. We already have a strong track record on food safety and we are continually working to strengthen our system. Earlier I said that when it comes to food safety, what is important is where we are today and where we intend to be tomorrow. Where we were, I said, is significant in providing a point of reference.

Allow me to refer to the Provincial Auditor's report of 1991. At that time the abattoir audit system simply didn't exist. The ministry conducted little testing. We didn't collect data in any systematic fashion. Today we have an extensive sampling and testing program. Our audit system was further enhanced last year to ensure that corrective actions were implemented in a timely fashion. It was in fact that very progress that we've made in respect to our audit program and information system which allowed the Provincial Auditor and his staff to review abattoir compliance.

We acted on the 1991 auditor's report and, as a result, we have come a long way in 10 years. Ontario consumers enjoy some of the safest food in Canada. We will implement every recommendation made by the Provincial Auditor in his 2001 report, or more accurately, we have already implemented many of them and are taking action on the remaining recommendations.

Finally, in addition to guidance provided by the two Provincial Auditor reports, we are carrying out our own reviews within the ministry and in partnership with other ministries and other levels of government. The initial

recommendations of this food safety system review, as I have referred to it, were taken to cabinet in October 2000, about the same time the Provincial Auditor was starting his process. As a result of the approvals provided by cabinet at that time, we have introduced many improvements and enhancements to our food safety system.

Doing our part to ensure the safety of our food supply is, however, a work in progress. I have already referred to several studies currently underway, and we are in the process of a major review of the human resource requirements for an effective meat inspection program. Following an analysis of those findings, we will make specific recommendations to enhance an already efficient and effective system.

We have accomplished many, many good things over the last few years. We plan to accomplish many, many more in the years to come.

With those introductory comments, I turn it to you, Mr Chair.

The Chair: Thank you very much, Mr Ingratta. It's always nice and encouraging to hear that ministries welcome the involvement of the Provincial Auditor in their ministries.

With that, we start the questioning today with the members of the government, and I suggest about 20 minutes per caucus. That should take us almost to the luncheon break. Who would like to start it off? Mr Maves?

Mr Bart Maves (Niagara Falls): I had read an article at the time of the Provincial Auditor's report—and I understand there are about 230 abattoirs that we're responsible for inspecting—an article about having only eight inspectors. I know that it's a requirement that we have an inspector there any time there's a live kill or any animal is slaughtered, so obviously the math doesn't work. I read a funny article where one of the businessmen said, "I don't know how they could only have eight inspectors in the province when I have one in my facility three or four times a week." Obviously something does not jibe there. Can you explain that?

Dr Ingratta: The number eight comes from the number of full-time classified staff who perform inspections in some of the larger full-time abattoirs that exist in the province. We have a contingent of 131 contract inspectors who work in abattoirs across the province. So when that abattoir owner indicated that he had someone there all the time, as I indicated in my opening remarks, every one of the abattoirs in the province has an inspector there for both post- and ante-mortem inspection of the carcasses. Therefore the number eight is somewhat problematic in terms of describing the number of individuals employed, because in fact it's 139 who do meat inspection in this province.

Mr Maves: How long has that been the requirement in Ontario, that an inspector is there for the slaughter and—what do you call it—ante and post?

Dr Ingratta: Yes, before slaughter and after slaughter. Ontario is one of the few provinces that has mandatory inspection of all meat slaughtered in provincial

abattoirs. That's not a requirement in all abattoirs. As an outcome of the 1991 auditor's report, we moved to that mandatory inspection. That has always been the case in the federally licensed and regulated plants.

Mr Maves: So prior to 1991 it wasn't the case, but post the 1991 auditor's report that's been the case?

Dr Ingratta: Prior to 1991 we did post- and ante-mortem inspections in the majority of situations, but there were a number of exemptions prior to 1991 for a series of situations. Abattoirs weren't required to have that mandatory inspection. As part of the direction from the 1991 report and, I would say, as part of a general public policy, we did move to that mandatory inspection for all animals.

Mr Maves: The auditor has been somewhat complimentary about the steps the ministry has taken during and since his report to address some of the difficulties he uncovered. But in my reading on this, I have a little concern. I read about requirements in other provinces. Saskatchewan has a voluntary inspection; Quebec requires inspection only for plants that sell products wholesale, and more than 120 slaughter plants that retail products directly to consumers are uninspected; New Brunswick has no inspection; Nova Scotia allows farm-gate sales of uninspected meat; PEI has no ante-mortem inspection. What came to my mind is, I hope none of this meat in these situations is making its way to Ontario.

Dr Ingratta: It would be unlikely that that would happen. Interprovincial transport is governed by federal regulation and those plants that are involved in export and interprovincial trade must be inspected by the federal government. So that abattoir in Nova Scotia would not legally be able to sell their product into another province.

Mr Maves: Is it safe to say that we're, then, leaps and bounds ahead of some of the other provinces on this?

Dr Ingratta: It's safe to say that as a province we are ahead of a number of the other provinces, in addition to simply saying we have a mandatory system and therefore we're ahead. We've been very aggressive in working with our federal colleagues on developing these national standards, developing HACCP-based systems to improve the general level of food safety across the country. Staff of the ministry have not only participated in but chaired some of those federal-provincial initiatives, so it is safe to say that Ontario would take a back seat to none of the other provinces in terms of our commitment and the resources that are allocated to food inspection.

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Mr Maves: Can you address for me the comment about non-refrigerated meat, which the auditor talked about in his report, making its way down the roads on some Ontario highways, I believe, in certain trucks? Can you talk about that and what steps you've taken?

Dr Ingratta: I'll let Dr Baker comment on the details of that. Suffice it to say that we have standards that are built into our regulations that speak to a requirement of refrigerated meat. Part of our process in auditing and inspection is to make sure those standards are followed.

I'll let Dr Baker talk to the specific details of that refrigeration requirement.

Dr Tom Baker: There is a regulatory requirement that says all meat has to be shipped in a refrigerated condition. It doesn't say that vehicles have to be refrigerated, but the intent here is obviously to make sure the meat stays below the four degrees Centigrade temperature, which is how refrigeration is defined. There are situations with some of these small abattoirs that are doing local deliveries in which they can maintain the meat in that refrigerated condition during a short half-hour haul, provided there's proper insulation and so on.

You have to be careful with that regulation. It was probably intended for long-distance travelling. But the intent here—and we work closely with our colleagues at the municipal level in the health departments—is that if there's any meat arriving at a restaurant or a food service institution that is above that four degrees Centigrade, then action is taken. It doesn't say that it has to be a refrigerated vehicle; it says the meat has to be maintained in a refrigerated condition.

Mr Maves: So I could ship frozen meat from an abattoir to a restaurant or retail butcher shop on a 20-minute drive, and if it's frozen meat, then it doesn't have to be in a refrigerated truck because it's unlikely to thaw in that time period or reach that temperature.

Dr Baker: That's correct. In fact, that's a typical problem with our current regulations. One of the reasons we were very anxious to get a new Food Safety and Quality Act in place is that we want to have regulations that are outcome-based, and this is a classic example. The outcome we want here is to make sure the meat doesn't get to a temperature that bacteria could start to grow, so we'd want to keep it below four degrees.

There are many ways of achieving that without having a large semi-trailer with a reefer on it. There may be situations—as you say, in a 20-minute delivery—where that just is not necessary.

Mr Maves: OK. The Dairy Farmers of Ontario assumed responsibility for cow's milk in 1998. The auditor has said that he reviewed the activities of DFO and found an adequate inspection process for raw cow's milk had been established. What is the relationship between the ministry and the DFO to ensure that that process continues to get high marks?

Dr Ingratta: There are two processes that I would comment on. First, in transferring that responsibility in 1998 to the dairy farmers, the ministry provided a financial consideration to ensure that the Dairy Farmers of Ontario were able to hire staff with the appropriate training and qualifications in order to do the appropriate inspections. So the ministry has financially supported that transfer of responsibility.

In addition, we have hired a consultant, and the activity is currently underway to do an official audit of the program. The Provincial Auditor looked at the program and found it generally acceptable, but did make the point that in having the overall responsibility for food milk safety in the province, the province should conduct

a formal audit of the program. We have that underway at this time.

Mr Maves: Just as a question to the auditor: I asked the question about the transfer of meat in unrefrigerated trucks that had been a kind of highlight of the report and had received a lot of media attention. Are you satisfied with the explanation that meat can be transferred safely to local butcher shops and that the crux of the matter is not reaching a certain temperature? Or have you got concerns beyond the answer to the question I've posed here?

Mr Erik Peters: I think certainly the answer is going in the right direction, if it can be established that it's satisfactory that the meat itself retains its temperature for the short distance. It is a concern, though, that when we looked at it, the inspection in that particular area could be stepped up or action could be taken to have the producer ensure that this meat temperature is maintained in all cases. We certainly will follow up on this, as to what procedures have been put in place, in two years' time when we look at it.

Mr Maves: As a practice, the logic is that the meat has to stay below a certain temperature. In your report, when you reported that meat was going down the highway in unrefrigerated trucks, how often was it the case that it was a local delivery and frozen meat? Was that the instance, or are there other instances?

Mr Gerard Fitzmaurice: The concern we brought out was as an example of some of the critical deficiencies that ministry inspectors had highlighted. It is just used as an example. We did not observe trucks going down the highway with unrefrigerated—so they have a number of what they call critical deficiencies, and there are several hundred of them. The annual inspection done by the ministry's veterinary auditors lists the ones that are critical. That's just an example of one that's critical. We could have selected a number of other examples.

But it is not we who have determined that this is a problem. It's the ministry's inspectors who have determined that it's a problem. If in that circumstance, let's say, they put ice in the truck to keep it cold, then what would be called a critical deficiency has been mitigated by some other circumstance. From our point of view, that would be acceptable, but we're not the ones making that determination. It's the ministry's own staff who are doing it.

Dr Ingratta: If I might, I know I'm supposed to respond to questions, but I think the important point has been raised here around the definition of "critical deficiency." The ideal situation is the reefer truck that Dr Baker talked about. But as has been pointed out, if there is a process in place to ensure that the outcome we want to achieve is made possible, then we have mitigated the critical deficiency.

So simply to check off and say there is a critical deficiency, without the follow-up that suggests the critical deficiency has been dealt with so that we don't have a negative outcome, is perhaps not telling the complete story.

I think it's important to know that when we talk about critical deficiencies, they can be mitigated. If I could, I want to take this opportunity to say that when we identify critical food safety situations that are not mitigated, then I believe the movement is fairly quick and swift to stop that practice and in fact go as far as stopping the slaughter of animals in that abattoir until that deficiency is dealt with. So it becomes in a sense some clarification of the words that are used.

The Chair: Mr Hastings.

Mr John Hastings (Etobicoke North): Mr Ingratta, thank you for coming here with your staff today. Some critics, wherever they come from, contend that the only way you can deal with critical deficiencies, make improvements in food inspection, is to have more people. You have to have more inspectors at every plant every nanosecond of every day.

You said in your opening statement that you're able to undertake a comprehensive food inspection program, especially with the meat handling, with fewer people but more resources in the area of technology. So my question would be, what is the appropriate mix of good management, leadership, certification, ongoing training of inspectors, technology planning and coordination with the CFIA so that you're covering all this and answering this general contention that's out there that if you don't have a person at every place every moment of every day, there's a problem?

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Dr Ingratta: There are a number of issues in your question. Let me start by saying that as the system currently exists, we do have a person there. You asked further to that, though, what's the appropriate mix? I've talked about technological enhancements to the system; I've talked about HACCP programs. We no doubt are moving in that direction.

First let me talk about technical enhancements. Going from an old system of hand recording, paper recording of the inspections and the audits, we have developed a computer-based food safety support system that allows for the electronic transfer and input of that information. Where that really provides assistance is that there's a much quicker turnaround time. If a deficiency is noted, an area manager can move into that situation and provide some further oversight in addition to the inspector. So technology in that regard has helped us considerably.

I think the important thing, and I made this point in my introductory comments, is that as a ministry and as part of our food system review, we've hired a number of additional staff over and above the individual at the line doing the inspection. We've done that because we see the need to deal with some of these increasingly important factors, other than the ones you can see and touch. We've done that. We've hired scientists so we can develop programs that can more effectively deal with potential microbial contamination, knowing what levels of certain organisms on carcasses might be and the impact that those might have. So we've brought in place another whole series of technology people to bring us to this new

level of inspection and investigation, 37 additional staff to work in that area, to help develop some of the protocols and the standards that will take us into the future.

You've also asked for the balance with, if you will, leadership and working with the CFIA. We've been, as I said, very active in working with federal-provincial committees to develop HACCP standards across the country. As a province, we've taken that leadership role. We have in place a number of additional area managers to provide that leadership oversight to that contingent of 139 inspectors, to ensure that those inspectors have both the appropriate management support and technical support, with veterinarians available to those inspectors. So I think we have the balance in the system of having people on-site doing that visual observation, complemented with these other technologies.

The Chair: You've got two minutes left.

Mr Raminder Gill (Bramalea-Gore-Malton-Springdale): Once again, thank you for being here this morning.

In your comparisons, I'm sure you deal with other ministries in terms of other provinces. I think it came up this morning—Mr Chudleigh brought it up—that perhaps one of the provinces doesn't have any standards per se, or inspectors, that being New Brunswick. Do you want to shed some light on that? Does that mean the food over there is not safe for human consumption?

Dr Ingratta: I think we need to be clear that we're focusing our comments this morning on abattoirs. The abattoirs in New Brunswick that are involved in international trade or interprovincial trade would be inspected by the Canadian Food Inspection Agency. For the abattoirs that provide local supply to local stores, and all the trade takes place within the province, there is not a mandatory inspection of those animals.

When I talked about the continuum of involvement within the food safety system, it goes to the issue that an inspection itself doesn't guarantee a safe food system. Having food produced in a safe fashion, ensuring that the regulations that control the amount of pesticides that are used in crops and the additives that might be used in animal production, having in place that series of regulations and standards goes a long way to ensuring that the food that goes through that abattoir is safe from the beginning.

What we need to ensure is that the following processes also have critical control points to make sure that food continues to be safe, that the food doesn't exceed four degrees Celsius in transport. Those are the types of steps that one needs to have in place. Simply because New Brunswick doesn't have a mandatory inspection of their provincial abattoirs doesn't necessarily suggest their food is unsafe. I'm sure it does give the broader population some comfort, though, knowing that every carcass in Ontario is inspected by a trained individual. I can't speak for the people of New Brunswick and how comfortable or uncomfortable they may be, but I think it also speaks to having a safe food production system as part of that continuum.

The Chair: Thank you very much. We'll get back in the next round. Mr Peters.

Mr Steve Peters (Elgin-Middlesex-London): We've heard earlier from the auditor and from yourself now, Mr Ingratta, about Bill 87, the Food Safety and Quality Act, and how, as the auditor pointed out earlier, it fills some gaps. You said that it's key to improvement. We can have the best legislation in the world and regulations to go along with it, but what assurances can you give to us here at this committee and to the people of Ontario that adequate resources are going to be put at the disposal of those people responsible for enforcement and implementation of the new act and regulations?

Dr Ingratta: I would look at what has transpired. In my introductory comments I talked about what we've done in the last 10 years. If we look at what we've done in the last two years, specifically, as a ministry we have continued to look at where gaps may exist. We've been very open as part of that Food Safety and Quality Act that we identified some gaps and we're moving to fill those. I talked about 37 new staff being put in place to deal with some of the technical requirements of a new and improved food safety system. When I look at what we've achieved, I use that as a basis of providing some level of support to the context that, yes, it is a priority. We have identified issues and, on a priority basis, we have put resources in place to deal with those.

It may be terse to say I'm looking at our track record and saying we have provided the resources and it continues to be a priority. The expectation is that we will continue to resource this priority area.

Mr Steve Peters: On page 29, the ministry responded, and you made reference to it earlier, to the enhanced human resource strategy for meat inspection. Has that enhance HR strategy been completed, or is it ongoing?

Dr Ingratta: That strategy is ongoing. Specifically to that strategy, a focus of that strategy is to look at, if you will, the new expertise that is required. As we become more involved in doing sampling, microbiological sampling, that type of thing, an expertise is required that's different from the old inspection system. So right now we have a balance of the old system and we're looking at the expertise that's required as part of the enhanced system. That's the type of thing that study is looking at: what are the skills and the knowledge that will be required, not only with the existing system but with the new system?

The report has not been completed. When it is, we want to take the consultant's recommendations and ensure that we continue to meet those improvements.

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Mr Steve Peters: How much money has the province saved by hiring 130 contract employees?

Dr Ingratta: The expenditures that we make in the food safety program, the meat inspection program, have actually increased. The 131 contract inspectors are part of that annual allocation.

Mr Steve Peters: What's the turnover rate of the contract inspectors?

Dr Ingratta: The turnover rate would be considered high, relative to the average turnover rate within the ministry. If you do comparisons, it's probably not as high as a number of other industries, but the turnover rate is significant.

There are a number of reasons for that turnover rate, including a number of our inspectors finding full-time employment. Many of those inspectors are part-time employees. They find, on occasion, full-time employment in federally registered plants. So there are other opportunities.

I want to add, as part of that, the reason they find employment in those federal facilities is that we believe we have a strong training and development program for those inspectors. We hire the best available people through a competitive process and then we put them through a defined training process. So after the six months of training that they're involved in, they are at a higher level. We need that in our inspectors but it also becomes, if you will, a marketable commodity.

Mr Steve Peters: It concerns me that you use the words that they're "high" and "significant" and it bothers me that we're training somebody and then somebody else is cherry-picking them from us. I'm concerned that with this high turnover that you've acknowledged exists, we may not have the best-trained people on the ground doing work on our behalf, that we're constantly getting entry-level individuals and we don't have good, long-term consistency within our inspectors.

Dr Ingratta: In addition to addressing the new expertise, the skills and knowledge that will be required, the human resources report will be addressing the exact issue that you deal with.

It's true that there's a cost to training and development, an investment in training and development. It would be beneficial if those people we train and develop had a longer-term employment contract, employment period, with us. But they're not indentured. They do have the freedom to move to other positions.

So the point you raise is a concern and it is an issue that is being addressed as part of that human resources review.

Mr Steve Peters: Perhaps, if we didn't have 130 contract employees and started to look at having full-time positions, those individuals wouldn't be jumping ship from us here in Ontario and would remain committed to Ontario's food industry.

Do the contract employees work for anyone else? Are they contracted to work for us, the province, or are they potentially working for a retailer or an abattoir as well? Is there any potential of a conflict of interest there?

Dr Ingratta: A number of the contract employees are part-time, so there is potential that they have additional employment beyond this contract. The issue of whether we restrict their employment with a food retailer, I'm going to ask Dr Baker if he could comment on that.

Dr Baker: They certainly are not allowed to work for an enterprise that they're inspecting, but they may have

part-time employment on a farm or perhaps a retail store in a city or something. That's not unlikely.

Mr Steve Peters: It has come to my attention that there was a contract inspector fired for refusing to cross-contaminate a poultry plant with campylobacter. Is firing a contract employee for doing the right thing part of an enhanced human resource strategy?

Dr Ingratta: Without the details of the example that you're using, I think it would be inappropriate to comment on whether the individual was fired for that specific reason or another reason. There have been contract employees who have been terminated. Not all of the employees complete all the requirements of the position. So without the details of that situation, I think it would be unwise to comment further.

Mr Steve Peters: It also has come to my attention that many of the contract inspectors have been taken to task because they have levelled charges or identified deficiencies in particular plants. But then they've been taken to task because they've been lodging too many complaints or the ministry has been receiving complaints from those plants. I think this is another point of having contract employees, that when you don't have anybody right behind you and backing you 100%, there's a sense, some concern, that they're afraid to inspect or condemn too often because they're going to be reprimanded for that. Any comments on that?

Dr Ingratta: I don't believe there's been a situation where an employee or a contractor has been reprimanded for too many carcasses being condemned. You raise two different points in your comment. I think you were suggesting, and correct me if I'm wrong, that as a contract person they felt uncomfortable in raising the issue, and in the following paragraph you've suggested that they were raising too many issues. So I'm a little bit at a loss on how to deal with your question.

We put in place a training program. We provide backup, both management backup and technical backup, to the individuals so that they can do their job to the best of their abilities. I believe there are no standards that suggest that you need to—if you will, the old story about the number of speeding tickets that an officer may need to accumulate in a day. There is no minimum number or maximum number of carcasses or percentages that would be detained. So the suggestion that they are being put upon because they may detain more carcasses, I would have to see that as a matter of fact. I have not seen it in the past.

Mr Steve Peters: Regarding grading at packing plants, what safeguards are in place to ensure an impartiality of the grading?

Dr Ingratta: Grading or inspecting?

Mr Steve Peters: Grading.

Dr Ingratta: Grading is done by the Canadian Food Inspection Agency. They have that responsibility and we contract with them to provide that grading function.

Mr Steve Peters: In the auditor's report there's a number—you just talked about the enhanced HR strategy. For example, in the animal disposal industry,

you go on to say in your response that the ministry is in the process of contracting with a consultant to evaluate risks and make recommendations on further program enhancements. When will we be hearing the results of the work of that consultant?

Dr Ingratta: Dr Baker, if you could tell me when that report is due; I think it is certainly due this year.

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Dr Baker: I believe that it's due to be completed at the end of March.

Mr Steve Peters: Under "Dairy Licensing" etc, in the ministry's response it talks about a raw milk quality program and legislation by March 2002. You go on to say further that the goats' milk quality program is under review and that the ministry is going to be in a position to determine program requirements and report back to Management Board of Cabinet by spring 2002. Will we be seeing this legislation in this term, and has a report gone to Management Board yet?

Dr Ingratta: We're talking about the new act that was passed in December 2001, so we're talking about regulations under that act. One of the benefits of the Food Quality and Safety Act is that we will be able to prescribe specific standards for goat milk. I think one of the difficulties in the auditor's report is that when it spoke to goat milk exceeding standards, they are essentially cow milk standards. They are different animals, and to use the same standards for both animals is one of the gaps, and that's why we're developing a new set of standards for goat milk.

I want to make one additional point in that area. The deficiencies that were identified were with raw goat milk, that is, milk before it is pasteurized, and there is no evidence that either goat milk or certainly cow milk is a food safety issue post-pasteurization. Going back to the issue of food safety and a set of standards, that is on the raw product, not on the pasteurized product.

Mr Steve Peters: How much time do I have left, Mr Chair?

The Chair: About four more minutes.

Mr Steve Peters: In the auditor's report under "Horticulture Monitoring," you talk about a reorganization within the ministry that allows for increased and more timely advisory and follow-up activities. That reorganization, I take it, has been completed. How has that been received by the industry?

Dr Ingratta: The restructuring has been completed. The Provincial Auditor's report specifically talks to a feedback mechanism once any samples are identified that might be in excess of standards. That process is in place. When samples are identified, in addition to inspection or regulatory staff, a member of our advisory extension technology transfer staff would work directly with the individual producer to find the cause of that exceptional result. So it's simply not, "You've exceeded the standard; here is a penalty." It is a process of education. My sense is that the industry has accepted that in a fairly positive way.

Mr Steve Peters: You go on to say in the same paragraph, in the ministry's response, that resources have been committed "to the design of a risk-based monitoring and inspection process for Ontario-grown foods of plant origin," and you say it's underway. When will that be completed?

Dr Ingratta: The risk management for materials of plant origin is an important area. Everyone naturally assumes that meat and dairy products have a risk associated with them. That's an inappropriate assumption, but there is a sense that there is more concern in that area. In the area of products of plant origin, as new information is generated internationally on potential sources of contamination and potential organisms, we have moved to put in place a system for monitoring that. We have a number of fruit and vegetable commodities that we've done baseline studies for now as part of the regulations that will become part of the Food Safety and Quality Act. Based on those baseline studies, we will be able to put in regulations that deal with those potential other sources of contamination.

We are building those regulations over time. We are working with products that are seen to be at higher risk. For example, seed sprouts are seen to be at higher risk than apples because of the method by which they are grown. So we are focusing on a commodity-by-commodity basis and identifying those with higher potential risk.

Mr Steve Peters: Under "Program Coordination," you say that inspection protocols are going to be developed. Have those protocols been developed, or when will we see those?

Dr Ingratta: Not all of those protocols have been developed. We are actively working on developing those. As I said, depending on the commodity, some of those protocols will be available this year. Ontario has the great fortune of being able to produce well over 200 different agricultural commodities. We can't deal with all of them in the first year, but we are dealing with those with potentially higher risk. We will have those protocols for the higher risks in place this year.

Mr Steve Peters: Under "Measuring and Reporting on Program Effectiveness," again you talk about how there is a consultant working with the ministry to develop the methodology etc, and the ministry is scheduled to report to Management Board on this initiative in the spring of 2002. Has that happened yet?

Dr Ingratta: No, it has not.

Mr Steve Peters: Just a comment: there are a number of issues that you've responded to in the auditor's report, and I appreciate the responses. It appears, though, there is a lot of ongoing work; just that last point, to report to cabinet. When will all of your responses be complete and implemented? Are we looking at these being completed this year, or are we looking one year or two years down the road?

Dr Ingratta: On the point you make, I want to refer back to my introductory comments. The food safety system is one that continues to grow and evolve and, I

believe, improve. I made the statement that we're a lot better than we were 10 years ago and considerably better than 30 years ago. The system will continue to evolve and improve.

A number of the recommendations—I believe about a third of them—have already been completed. Some of the others are longer-term. You remember that I spoke about the dairy farmers wanting to put in place a HACCP program on farm. In order for all 6,200 dairy farms to have that HACCP system in place on farm, they are expecting that won't happen until 2004. So for me to tell you that the 32nd recommendation will be completed by a specific time, it's not possible for me to do that. I can say that every one of those recommendations has underway a process to achieve those recommendations. The majority of them will be complete within the next 18 months, but not all.

The Chair: We'll have to leave it at that for now.

Ms Shelley Martel (Nickel Belt): Thank you, Deputy and staff, for being here today.

Deputy, you said through your remarks a couple of times that what's important is the system that we have in place today, and you want to focus on that. I think, however, that it was as a result of the audit and a number of deficiencies noted that the ministry was forced to make the changes that it did, which get us to the system we have today. So I do want to focus on some of the observations that the auditor made in his audit, and I want to deal with abattoirs first.

You said that meat inspectors were in abattoirs every single day of slaughter and also that the ministry has not reduced the number of inspections. I think it is true that there were meat inspectors in abattoirs every single day of slaughter before the audit as well, and the auditor confirmed that earlier this morning. So for me that begs the question of why the auditor found so many problems when he inspected abattoirs, and I think there are just a couple to highlight.

They include that "Deficiencies rated as critical were noted during the annual licensing audit of every abattoir that we sampled," and, "The ministry had no specific criteria for determining when to suspend licences or impose penalties.

"Meetings with abattoir officials to establish corrective action plans were not held on a timely basis." Some of these meetings took place 110 days after the audit was complete. Or, for example, "In our sample, we noted that 40% of the critical deficiencies reported during annual licensing audits had not been rectified by the agreed-upon dates.... In addition, almost one third of these critical deficiencies reported during 2000 annual audits reoccurred" in 2001.

He went on to comment that inspectors were supposed to take corrective action, in many cases they didn't, and also that the ministry didn't have a procedure in place to ensure that lab test results related to the random sampling of meat from abattoirs were followed up on a timely basis to resolve problems.

So if you had inspectors in there every single day of the slaughter, how come the auditor noted so many problems?

1140

Dr Ingratta: Let me first start with your opening comment, that if we have an improved system today it's because of pressure that has been brought to bear by the Provincial Auditor's report. I think it's fair to say—and I hope I emphasized it several times in my introductory comments—that the recommendations that the Provincial Auditor has put in place, we're moving on all of them because they fit very well with the work that we had in place prior to the Provincial Auditor's report. So to simply suggest that we are only doing this as a result of pressure brought to bear by the Provincial Auditor's report I think would not be entirely correct. We have a system where we continue to look for improvements. The system is acknowledged not to be perfect, and we continue to look at improvements. We are thankful that the Provincial Auditor provided his insights to help us continue to move in that direction. So I apologize for taking some time on this issue. It's not simply because the Provincial Auditor said, "You're doing things wrong," that we made changes. That process has been underway for some time.

I want to go back to your other point, talking about critical deficiencies. In the audit of the facility there's a whole range of factors that are looked at. First among them are issues that may in fact impact on the safety of the product that is being produced by that abattoir. If there is a factor that is identified that would potentially cause a safety problem, that's dealt with immediately or in the very short term; 110 days is not a time frame in which something of that nature would be dealt with.

If, for another example, the paint is peeling on the wall, the abattoir may be given a bit more time to correct that deficiency. The standards that are in place in the abattoirs are really quite extensive, and I don't think you could have not noticed Dr Baker bringing in with him some documentation. In that pile of documentation is a very long set of standards that the abattoirs are required to adhere to. So they are provided additional time to correct a number of those deficiencies. The ones that impact on food safety are dealt with more expeditiously.

Ms Martel: If I might return to this, Deputy, it wasn't me who was using the word "critical." I gather it was the ministry inspectors and I gather they have some standards that they need to apply in order to determine that something is critical. The auditor noted that deficiencies rated as critical were noted in every abattoir that they sampled and that 40% of them were not dealt with by agreed-upon dates and almost a third of them reoccurred in the second audit. So it's not my term, "critical." It's your staff who are noting that as critical. Are you trying to tell us that in fact everything the auditor noted, or the majority of what the auditor noted, were not critical deficiencies, were not urgent, did not affect food safety?

Dr Ingratta: I am suggesting to you that the term "critical"—and yes, you're right, it's a term that we use

within the ministry. The auditor's report certainly referred to it. As we were suggesting earlier with the refrigeration, it's critical that the product be held at less than four degrees Celsius. How one achieves that or how one mitigates the situation to ensure that happens, there are a number of different avenues to allow that to happen.

Yes, we use the term "critical" and yes, it's true that all the critical deficiencies that were identified—and when you talk in the 40% and when you talk in every one of those abattoirs, a significant number of those critical deficiencies would not directly be related to food safety.

I say that as clearly and unequivocally as I can. If it is a critical deficiency dealing with food safety, it is dealt with expeditiously.

Ms Martel: So you can, as much as possible, give us a guarantee that what the auditor noted was not critical in terms of impact on food safety?

Dr Ingratta: What the auditor noted—again I would refer to the fact that he used our audits, our documentation to identify those items. I can support my statement that if it were a critical food safety item, it was dealt with expeditiously. I can repeat that and I will repeat that. In the 40% number, a number of them would not be related to food safety.

Mr Don Taylor: Maybe I could just add, in terms of the timing of the follow-up, which was a key piece that you referred to and that the audit report referred to, that we in fact, as a result of that recommendation and other studies we've done, have put in place a new set of guidelines with respect to follow-up. These came out of the audit. As Dr Ingratta mentioned, any critical issues are immediately discussed and dealt with between the auditor and the plant owner, and then basically a schedule is put in place for correcting the remaining deficiencies. That schedule is in the system that we're operating now, based upon the overall grade of the abattoir.

If this is an AAA abattoir and this is a minor issue, there may be four weeks provided to respond to it. If it's an abattoir that has many more deficiencies noted, we would be looking for follow-up in a much more timely manner.

Ms Martel: In terms of the follow-up, you said that inspectors are now required to follow up on corrective action and that managers have a responsibility, as part of their performance review, to guarantee that. Yet I noted that the auditor said, previous to that, that it would be management staff who would give direction to the inspectors in terms of follow-up. So why was there such a gap between what was happening on follow-up before and what I presume is the case now?

Dr Ingratta: That is one of the recommendations from the auditor that we have taken in terms of pursuing a more aggressive follow-up action. We have revamped the audit system in the provincial abattoirs to ensure that the audit is done more aggressively and the follow-up is pursued more aggressively than was the case in the past. We take the auditor's advice that we need to pursue that with more haste.

Mr Taylor: Part of that aggressiveness, I should just add, is that there is some technology brought to bear in this. We are now able to put scheduling into the state-of-the-art computer system that Dr Ingratta referred to earlier, so the results of the audit report can be put into that in terms of a number of items that the inspector who is there every day can be monitoring and following up on.

Ms Martel: Correct me if I'm wrong: was the computer system not in place before the audit?

Mr Taylor: The computer system was initiated, I believe, in 1999, so the computer system has been enhanced and has been used to apply to more functions of the food safety inspection process ever since then. So although the system was in place, the system of work scheduling wasn't in place as completely as it is today, which is partially a result of the auditor's recommendation that something like that needed to be done.

Ms Martel: So it's monitored and surveyed more than it was before.

Mr Taylor: Yes. The system has been improved.

Ms Martel: In terms of the horticultural industry, the auditor noted that in your 2000 testing, you noted a number of instances where pesticide use was significantly high, in some cases 80%. By March, the end of the audit, there had not been a formal letter sent to those producers who might be affected to advise them of that. I noted in your response that that actually didn't occur until July 2001, which would have affected a second growing season. Given that the auditor had identified that problem even before the audit was finished in March, why did it take until July for your ministry to formally notify growers that they might be one of the producers impacted and that they should look more closely at their use of pesticides?

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Dr Ingratta: The samples were used as part of, if you will, a background research project. So it wasn't a formal process of identifying and then corresponding with the producer. That was an error. We have corrected that. We have now put in place a process where any sample, whether it's a research sample or one that is part of a baseline study—once that sample has been identified to have a level in excess of any standard, the individual is contacted. The tardiness was an error.

Ms Martel: Deputy, have you increased your level of sampling? Because it was also a concern of the auditor that he didn't feel it was a broad enough base of samples to really look at contaminant problems.

Dr Ingratta: Specifically in the area of fruits and vegetables?

Ms Martel: Yes.

Dr Ingratta: Yes. I mentioned a number of baseline studies that we're doing. It has not been, neither in this jurisdiction nor many others, a normal process to do those microbiological samplings of fruits and vegetables. They have traditionally not been seen to be a high-risk area. As part of our enhancements to the system, we have decided to do a number of baseline studies. As part of those baseline studies, we are doing considerably more

testing and analysis. Those baseline studies hopefully will develop a scientific or science-based baseline in order to put in place regulations in the future that will allow us to do that sampling with regularity, and within a set of guidelines and a protocol. So yes, we are doing more. We've done baseline studies for 10 horticultural commodities at this point, and we will do more.

Ms Martel: Do you need to hire more staff to do that?

Dr Ingratta: The analysis is done by a laboratory outside of the ministry, as part of the University of Guelph. We contract with the University of Guelph and other laboratories do that analytical work. In terms of reporting the results and working with producers who might have excessive samples, that work is done by existing staff within the ministry.

Ms Martel: Just one further question. Do you have to increase your allocation in order to have Guelph do the contract for increased testing? Is that an increased expenditure?

Dr Ingratta: That's a part of the allocation that we've gotten with the first-level review of the food safety review that we talked about earlier. So the allocation was made available to do those analyses and to do those consultant reports that we've talked about.

Ms Martel: I wanted to actually go near the end of the report. The auditor noted that your ministry was in the process of evaluating the economy and efficiency of your in-house inspection service versus the fee-for-service inspection system. This caught my attention. I wonder what provoked such a review, and is it complete?

Dr Ingratta: The stimulus for that review, I think, would go back to the 1991 auditor's report, which suggested that we examine that as a possible mechanism for the more efficient allocation of resources. Again, it goes back to these 200-plus abattoirs. Not all of them are operating every day of the week. In fact, some of them only operate half a day of any particular week. Allocating a part-time resource to that inspection was seen to be significantly more efficient rather than having that same person move about the province to three, four, five or six other abattoirs. So part of the stimulus for that goes back to the 1991 auditor's report, to look at that mechanism as a cost-efficiency.

Ms Martel: I'm confused, because I assumed what it was talking about was whether you had private sector—that is, contract fee-for-service—inspectors doing the work, or in-house ministry staff. I say that because the auditor said, "The ministry had also performed an outsourcing initiative in 1995, which resulted in the replacement of ministry inspection staff with a more economical fee-for-service system. The ministry is currently evaluating the economy and efficiency of the in-house versus fee-for-service inspection systems." So I didn't think it had to do with part-time as much as it had to do with, did it make sense to continue with private sector inspection or should you go back to having in-house ministry staff? Is that the nature of the review?

Dr Ingratta: I apologize for misinterpreting your question. That's part of the human resources review that

we've talked about. Certainly we continue to evaluate. I don't think there's a question of the quality of inspection that is done by an in-house inspector versus a contract inspector. I don't think that's an issue that is being debated.

The question is, if we have eight full-time staff who are inspectors, they work in abattoirs that are operating full-time. Have other abattoirs since then expanded to become full-time? Is there opportunity to move from a part-time inspector or perhaps two part-time inspectors working in that larger plant and replace that individual with a full-time individual dedicated to that plant? That's the type of review that is part of the human resource review. In addition to looking at the new skills and knowledge that's required, we're looking at the balance.

Ms Martel: But you could have part-time public sector staff too. That's your other choice, right?

Dr Ingratta: That would be a possibility.

Ms Martel: Is that what you're looking at?

Dr Ingratta: That would be part of the review, yes.

Ms Martel: It's not clear to me what is prompting this, because it was 1995 when that outsourcing initiative occurred, and a couple of years later we're looking at the possibility, and you can correct me if I'm wrong, of actually reversing that decision. Is that true?

Dr Ingratta: I wouldn't say "reversing" the decision. I would say there isn't an organization that doesn't continue to review their operations. If they don't, they obviously run the risk of falling behind what's appropriate.

Is the system we have today the system we need tomorrow? That's part of the review. Where we would continue to use contract inspectors and where we might be better served through efficiency to use full-time ministry employees is part of the review. So when you suggest that we're going to reverse a decision, I wouldn't use the term "reverse." I would certainly say we're looking at reviewing it, looking at the infrastructure, the organizational structures of abattoirs in 2002 compared to 1995 and looking at the needs of those abattoirs, the needs of the program delivery in 2002.

The Chair: Your last question for this round.

Ms Martel: Maybe you can explain the breakdown between your full-time staff and their responsibilities and your contract staff. Should I assume that all of the contract staff are part-time?

Dr Ingratta: I'd have to ask Dr Baker that.

Ms Martel: Can we get a breakdown of that?

Dr Baker: I don't have those numbers here, but there was quite a wide variation. A number of the contractors would work as little as six or eight hours a week, and some of them just on a seasonal basis, the Christmas area or whatever. There are others who at certain times of the year would indeed be working 40 hours or even more, perhaps, in a busy period. So there's quite wide variation.

Dr Ingratta: We could provide that type of information, yes.

The Chair: OK. Thank you very much. We'll recess now until 1 o'clock and then we'll start with another round.

The committee recessed from 1200 to 1259.

The Vice-Chair (Mr Bruce Crozier): We'll bring the committee to order. I take it we're ready to go, Mr Ingratta and Mr Taylor. If so, we'll proceed with the government caucus.

Mr Ted Chudleigh (Halton): Welcome to the committee, Dr Ingratta. Earlier this morning, the auditor made some comments referring to the defined responsibilities that the inspection services now take on. I wondered if you could give us some examples of what those defined responsibilities are. I take that it in the past there were gaps in the process that perhaps fell between the cracks and that, in defining those responsibilities—whether they be federal, provincial, agricultural or health-related—we have taken on new responsibilities in the inspection process. I wonder if you could give us some insight into some of those.

Dr Ingratta: The new legislation that was passed in December is what we were referring to in terms of identifying some gaps and dealing with those. In the course of almost two years of consultation with the industry and interministerial consultation, we identified some areas of concern. One of them was fish inspection. The new act will allow the Ministry of Agriculture, Food and Rural Affairs to take on a responsibility in fish inspection.

One of the other areas that was identified as a potential weakness—I'm not sure we could use the term "gap"—was the inspection of non-slaughtering facilities. These are plants that don't actually conduct a slaughter but they process meat products—sausage, that type of thing—and to bring several hundred of those facilities under a system of more regular scrutiny. Those were areas where we thought we needed to improve activity. That was a combined effort with the Ministry of Health and Long-Term Care and the local medical officers and municipalities dealing with those facilities.

In terms of gaps with our federal colleagues, as I pointed out in the introductory comments, the majority of meat that is slaughtered in the province is inspected by our federal colleagues. We've identified a number of abattoirs that upgrade or upscale themselves and want to become involved in international trade, so we've moved some of those facilities to the federal regimen. There is, if you will, a constant movement within the system. It continues to evolve, plants continue to evolve, but certainly we've taken every effort to look at where gaps might be to make sure that we minimize risk in the future.

Mr Chudleigh: In the further processing area in plants that don't slaughter, if the further processor wishes to export that product out of Ontario, does he require a federal inspection?

Dr Ingratta: All international trade requires federal inspection.

Mr Chudleigh: But if he purchased his raw product from a slaughterhouse which was federally inspected and then processed the product into hams, bacon etc, does he then require federal inspection of that finished product before it's exported, or can he ship that because it was sourced from a federally inspected plant? Can he then ship that anywhere he wants?

Dr Ingratta: It's my understanding that that product has to be inspected, not just the raw materials.

Mr Chudleigh: Good. Also, the fines for misdemeanours in this area have been significantly increased. Where did we come up with the amounts of the fines? How were they determined as to what would be appropriate for a level of fining?

Dr Ingratta: The most recent examples of a fine that has been instituted in this area demonstrate our concern that the fine be, if you will, more aggressively appropriate to the action. There was a fine issued within the last month that was in the magnitude of \$10,000. Average fines in the past have been considerably less than that and there was some significant push-back that the fines themselves were not significant enough to rectify the situation that was outside the legislation. As a province, we've moved more aggressively to increase that number. The fines are now quite significant, and under the new Food Safety and Quality Act there are areas where it can be more than just fining; there can be a period of incarceration as well. I think, again, it emphasizes that we want to be very clear in demonstrating that this is a priority, that if in fact there are infractions, they need to be dealt with with a greater level of severity.

Mr Chudleigh: During the consultations on the food safety act, were these fines discussed? Were they generally supported by the industry or was there concern expressed by the industry about the level of fines?

Dr Ingratta: There was a discussion during the consultation on fines and penalties. I think it's safe to say that there is always a variety of opinion in consultation. There are those that are, if you will, sustainable businessmen in the area that want to make sure there are significant penalties put in place, so that they're not operating on an unlevel playing field with those people who perhaps don't pursue the regulations as they should. There was support for those levels of fines by people who would never be in violation. Others would have objected to any fine, not because they may be in violation, but many people object to financial penalties. Some of us have been exposed to speeding tickets and find the dollars excessive but not inappropriate.

Mr Chudleigh: Certainly not inappropriate. The HACCP program has been around for many years and seems to have been implemented over time in the food business, in the food industry. Could you give us an indication of when the Ontario industry might expect to have an up-and-running HACCP program throughout the industry, from farm to fork, as it were? Is there a date? Is there a goal that is set? That's not to say that there aren't constant changes to that program as technologies change,

but to have that program in place, is there a goal set for that?

Dr Ingratta: The deadlines or the timelines vary by sector. I think I mentioned in my introductory comments, or certainly at some point in the questioning, that the dairy farmers expect to have an on-farm HACCP program in place by 2004. It's interesting to point out, though, that there are already a number of industry HACCP programs in place. Many of our food processors already follow the principles of HACCP in their operation. What we're talking about in part of the new Food Safety and Quality Act is to provide a framework where HACCP or HACCP-like programs can be made available. "From field to fork" is the most common expression that we use.

The dairy industry is looking at 2004; the greenhouse vegetable industry is looking at probably the end of this year to have a program in place. So it does vary. I think what's important is that the industry has taken on a desire to develop those HACCP programs. As a ministry, we've invested \$8.8 million to support the industry in developing those HACCP programs, and as I pointed out, there are over 200 commodities. Having all of those programs in place within the next year or two is quite unlikely, but it is certainly something we're working toward.

The final point about the HACCP program, and I don't want to protract this, goes to the issue that we've spent a lot of time talking about inspection and licensing. The HACCP program drives home very clearly that it is the responsibility of the sector, everywhere from the producers making sure they grow that crop or raise that animal in an environmentally safe way in ensuring food safety, all the way through to the consumers, making sure that the whole continuum is involved in food safety. That is the big plus of a HACCP program. As they are developed, there's a broader awareness. I think members of this committee have explained that what we really need is a broader awareness of food safety and food safety issues, and HACCP programs will help upgrade that.

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The Vice-Chair: Excuse me, gentlemen. Just ever mindful that the public watches this as well, could you tell us what the acronym HACCP stands for?

Mr Chudleigh: The hazardous analysis critical control points program.

The Vice-Chair: Hazardous analysis critical program, right?

Mr Chudleigh: Was that a test?

The Vice-Chair: It is for me.

Interjection: Critical control points.

Mr Chudleigh: I would have thought a former employee of H.J. Heinz would know about those kinds of things.

The Vice-Chair: I was the data processing guy. Continue.

Mr Chudleigh: The Dairy Farmers of Ontario program being completed in 2004; you mentioned that's an on-farm HACCP program. Will that be meshed with the

trucking business, the dairy receivings, every step along the way? Is that what the program is designed with, or is this an on-farm system?

Dr Ingratta: The intent of HACCP programs is to have an integrated system. The elements of an on-farm HACCP program will include things like the farmer having a nutrient management plan so that agricultural waste is disposed of in an appropriate way. The environmental farm plan would dictate that the livestock producer would have participated in and passed a livestock medicines course so the appropriate application of medicines will take place. So it's the whole range of activities that a farmer would pursue, but it's absolutely important that once that milk leaves the bulk tank on the farm and is picked up by the milk transporter, they also have a system of checks and balances, of refrigerated transport, of minimum amounts of time before it's taken to the milk processing facility.

It is important that all of the players in the sector are participating in that HACCP program, including not leaving your milk out on the counter for a day and a half and then drinking it and finding that you may have a bit of stomach upset. It sounds a bit terse, but as I've said several times, everyone within the continuum needs to be aware and participate in the food safety program. So on-farm 2004, the milk transporters will be working on a program. As well, I think I'm correct in saying that most of the dairies already have a HACCP program in place at the dairy processing facility.

Mr Chudleigh: This would take into account all—what are there, 6,000 or 7,000 dairy farms in Ontario?

Dr Ingratta: Sixty-four hundred.

Mr Chudleigh: Each one of those would have to become acquainted with each step of this program?

Dr Ingratta: That would be correct.

Mr Chudleigh: That's a very aggressive program. The Dairy Farmers of Ontario are supportive of this program?

Dr Ingratta: The Dairy Farmers of Ontario are very supportive of the program. They are the lead applicant in the process, with the ministry's healthy futures program, to develop a HACCP program that is user-friendly so that all 6,400 can apply it in their operation, rather than something that may be a 500-page academic tome. They're very much involved in this. I think it's fair to say that the agricultural and food industries realize that food safety is a critical element of their being in business. An outbreak that is related to food will have a dramatic impact not only on the population but on the producers themselves. So they are being proactive in developing these systems, not just relying on an inspection system.

Mr Chudleigh: Given that we've seen mad cow disease in Europe, foot and mouth disease in Denmark, and various other outbreaks of diseases among animal populations, and indeed in food I suppose to a lesser extent, does this become a critical component of the ability of Ontario to trade internationally in the future, do you think?

Dr Ingratta: In discussions with our federal colleagues who, again, have that international responsibility, as part of the agreement that the federal and provincial ministers came to in their annual meeting last year, they identified very clearly that they were in support of a strategy that positioned Canada as being a world supplier of high-quality, safe food produced in an environmentally responsible way.

Every minister of agriculture and their federal colleague supported that as a strategy we wanted to pursue, and there are critical elements in it. So food safety: very much a part of that; environmental responsibility: very much an important part of that strategy. I would take from those deliberations and that agreement at the last federal-provincial meeting that, yes, it will be very much a part of an Ontario and a Canadian strategy for exporting agricultural products.

Ontario, as a matter of fact, exported over \$7 billion worth of agri-food commodities last year. So it is an important part of our agricultural economy, about a quarter of all of Canada's agri-food exports.

Mr Chudleigh: And mostly finished product, as opposed to raw commodities?

Dr Ingratta: In Ontario's case, of that slightly over \$7 billion, I believe somewhere between 60% and 65% would be value-added products. Our colleagues from Saskatchewan probably would be the reverse of that, where they would be shipping raw product, shipping wheat. We're shipping bread; they're shipping wheat.

Mr Chudleigh: The strategy of course is, who would not sign on? It's got a little bit of motherhood to it. I suppose where the rubber hits the road is how committed a government and a ministry are to making it happen. I'd suggest that our government, and your ministry, are very committed and have put a lot of money and effort behind it, especially in the food safety act and the kinds of things we've discussed here today. So I think it augurs well for the future of agriculture and food in Ontario.

With some of the questions that were coming up earlier, I was a little confused about the timing of the Ministry of Agriculture and Food's internal review of their processes as it revolves around inspection issues and the timing of the audit. Is your review an ongoing program that never really ceases, that you continue to review and therefore when the audit took place you were full in the middle of a review, or did the review start after the audit took place?

Dr Ingratta: I would classify it as more of the former. We have been in considerable dialogue and debate within the ministry for, some would say, almost a decade on how we can amalgamate, streamline and improve food, food safety, enact regulations around food safety. So there's been some level of dialogue for a significant period of time.

I think it's quite clear that the efforts that have been undertaken in the last three-year period have been most significant. There are a couple of issues that have ratcheted up the concern in the public, whether it's food safety or environmental issues on the farm. Those have

been concurrent with our desire as a ministry to seek improvements in the system, streamline the system, a science-based system, some of the issues that I talked about this morning.

So it is more of an evolutionary process. We talked considerably this morning about this new food safety decision support system, the technology system. It started out as a base system for being able to report the daily number of inspections. We now have made it a more interactive system, so it continues to improve and evolve.

We have every expectation that what we've put in place is a system that is organic, if you will, and that it continues to improve and evolve.

I stated, and I will repeat, that we appreciated the input that the Provincial Auditor made in reviewing our program. It helped confirm that many of the directions we were pursuing were appropriate. It also pointed out some of the deficiencies. As I've said, we've moved on every one of those recommendations.

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Mr Chudleigh: I think Mr Maves has one short question.

The Vice-Chair: If it's really short, because you are over your time.

Mr Maves: It's really short. It's something you actually alluded to earlier. I just wanted a clarification on it. In the auditor's report, you talked about goat's milk and that 90% of the samples tested by the lab did not meet legislative bacterial standards. You said that was, in most cases, pre-pasteurization. Can you just clarify that for me?

Dr Ingratta: In all cases, that was pre-pasteurization. The issue that may have been confusing is that we have not had standards for goat's milk and the goat's milk was being compared or judged, if you will, on cow's milk standards. There is a maximum of somatic cells you can have in cow milk. Goat is a different species; goat's milk is not cow's milk. It has been judged in the past on cow milk standards. Part of what we will be changing in the food safety and quality legislation is having a set of standards specifically for goat's milk. But it is all pre-pasteurization. I think I pointed out that there is no evidence that goat's milk, post-pasteurization, had exceeded even any standards for milk quality.

Mr John Gerretsen (Kingston and the Islands): I've been on this committee for two and a half years and I always find it very interesting that most ministries come in here and basically say, "Yes, we appreciate what the auditor has done with our ministry, but we really started to make some of the changes before he came in." Maybe I'm getting a little cynical in my old age, but the timing always seems to be just perfect, that the changes are taking place at the same time the auditor points them out.

I know there has been a lot of discussion today about what you're doing now to improve the system in the future, but I would like to spend some time with respect to the actual deficiencies that the auditor identified and how it is possible, in a ministry that's been around as long as your ministry, which obviously had major

degrees of standards as well back in the early 1990s or 1980s or even in the mid-1990s etc, that these kinds of conditions could have existed.

Let me just read you the very first one dealing with the food safety deficiencies. The auditor states that the "Food safety deficiencies that are defined as critical by the ministry"—in other words, you people have decided that they are critical—"and could pose risks to human health were noted during annual licensing audits of ... (slaughterhouses) but were not corrected in a timely manner. In fact, almost one third of the deficiencies noted were detected ... during the following year's audit." How is that possible? A year after deficiencies were noted by your own ministry, nothing has been done about it. Could you explain that to the committee?

Dr Ingratta: I'm glad to attempt to explain that. There is a long list of checkpoints that are part of the audit.

Mr Gerretsen: We're talking about your audit, the internal audit, right?

Dr Ingratta: Yes. In fact, the references that the Provincial Auditor made were based on the data in our audit. To my understanding, they never visited an abattoir and did an audit. They took an opportunity to visit an abattoir to understand what the normal comings and goings might be, but their comments are based on our audits. So, yes.

Mr Gerretsen: On the paperwork that your ministry has?

Dr Ingratta: Yes. There are a considerable number of points that are checked as part of the audit: the temperature of sanitizing solutions, the cleanliness of a surface, whether the walls are composed of an appropriate—suffice it to say that there's a long list.

It's also fair to say that there is never 100% compliance with all the things that are part of that checklist. There may be any number of deficiencies. As part of the audit process and as part of the process that we certainly have in place now, there is a requirement to come back to that plant and set a time frame for the correction of those deficiencies.

Mr Gerretsen: But that was not done then. Just so that I understand it, the deficiencies were noted but nobody went back there, let's say 30 or 60 days later, to see that the rusty equipment, the unsanitary services etc had been cleaned up.

Dr Ingratta: There would have been a revisiting, but as we've pointed out, we revamped the audit process for the abattoirs. We've gone to a new classification system of how well those abattoirs meet the standards. So there has been an ongoing process. Is it more aggressive today than it was three or five or 10 years ago? Yes. It's a more aggressive follow-up process. The timelines are more defined. These are some of the recommendations that the Provincial Auditor made, that we needed to have more defined time frames.

Mr Gerretsen: Have you got adequate resources or more resources to actually do that work that you obviously weren't doing two or three years ago?

Dr Ingratta: We have a trained set of veterinarians who are doing the audits. We have adequate resources to audit the 200-plus abattoirs that we have in the province, to do an annual audit and to do the follow-up based on the time frames that are now in place.

Mr Gerretsen: Did you not have those resources in place two or three years ago when the auditor actually did his audits?

Dr Ingratta: Not all of the dedicated resources. Yes, that would be correct.

Mr Gerretsen: Let me go on to the next one, dealing with the goats' milk situation. It states that one third of the inspection reports that we review for goats' milk dairy farms gave these farms "a conditional rating because of non-compliance with minimum standards. Examples of non-compliance include unclean milk storage tanks and milking equipment. Furthermore ... 90% of the goats' milk samples tested by the laboratory did not meet the legislated bacterial standard"—and here's the critical point—"yet no follow-up action was taken by the ministry."

I realize from your comments earlier that there weren't standards in place for goats' milk, but these are situations where you have actually found deficiencies in 90% of the cases and yet no follow-up was done. How is that possible?

Dr Ingratta: I want to go back to the point of comparing—and please tell me if I'm not making the point here—goat milk to cow milk standards. If you don't have a set of standards for goat milk, it's a little difficult to go to the goat milk producer and say, "You must follow this standard." If it's a standard of general comparison to cow milk, it's a little difficult to go back to the goat producer and say, "You have to follow cow milk standards."

Mr Gerretsen: Why are you even doing the inspections in the first place if you've got no standard to measure them against?

Dr Ingratta: In order to develop the baseline, because there will be standards in the new piece of legislation. There will be regulations that cover goat milk in the new legislation. We simply can't establish those standards without some data or information in order to establish those standards. So we go out and take this information and then you compare it to cow milk. It is a leap to suggest that there is a safety deficiency in the goat milk because it doesn't meet cow milk standards. It's particularly inappropriate to say it's unsafe, because it is pre-pasteurized. There is no report, no evidence that once the goat milk is pasteurized it is unsafe.

Mr Gerretsen: Are you saying that the auditor is wrong, then, in this assessment? He's saying that "90% of the goats' milk samples tested by the laboratory did not meet the legislated bacterial standard..."

Dr Ingratta: For cow milk.

Mr Gerretsen: OK. So you're saying it's for cow milk. The auditor, of course, doesn't state that in his report. He just deals with bacterial standards in general. Are you saying that basically you did these tests in order to determine what kind of framework you should put into

place by which goats' milk could be tested? Is that why you did these tests?

Dr Ingratta: To use them as a basis for the standards that will be in the new legislation. That is certainly a very strong reason for doing them, yes.

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Mr Gerretsen: Let me go on to the next one. It states, "In 2000, the ministry tested almost 800 fruit and vegetable samples and found 28 cases," which I think is somewhere between 3% to 4%, "where chemicals exceeded acceptable limits by as much as 80 times the limit." This isn't just barely over the limit, but 80 times the limit. "As of March 2001, the ministry had yet to formally notify growers and retailers of the test results for these samples collected in the summer of 2000." Why do this testing and not let the growers know what the test results were, particularly in cases where it was 80 times the acceptable limit? What explanation do you have for that?

Dr Ingratta: The explanation requires a bit of detail around the standards that are in place. First off, my understanding is that that's one sample at 80 times, not 3.1%. So all of those samples that exceeded were not 80 times; one sample was 80 times.

Mr Gerretsen: OK, maybe.

Dr Ingratta: It was, as I understand it, an issue of pesticide residue. The standards on pesticide residue are federal standards. I don't say that as a reason to shirk responsibility, but they are federal standards. They are standards that have a hundredfold safety factor built into them. The level recorded here, even at the 80 times on this one sample, was not at a level that would be deemed to be, by Canadian standards—which, as a matter of record are among the most stringent pesticide standards in the world—above a level within their safety tolerances. I realize that 80 times on the one sample seems like a very dramatic number, and it is a number that we would work diligently to ensure doesn't happen with regularity, but it is within the safety bounds of the federal pesticide legislation.

I have already suggested that we were in error in not reporting the results of that sample or others of the sample that exceeded the protocols. I've already admitted that we were in error in not getting back to the producers and working more diligently to find the cause of those elevated levels. I have suggested that we do now have in place a system that is a one-week turnaround if any of those elevated levels are found.

Mr Gerretsen: Do you have extra resources for that? The reason I am asking is that the next sentence in the auditor's report is, "In addition, we were informed that due to staff reductions and reorganization, ministry staff no longer investigate the source of concerns to help producers resolve identified problems."

I guess what I'm getting at is, why are all these things possible now within your ministry in all of these three areas I've mentioned, and why wasn't it done before? Do you have more resources available to do the stuff now that you didn't do before?

Dr Ingratta: In my opening comments, I believe I stated that in the last 18 months we've brought on 37 new staff to work in this general area of food safety, research and development in food safety. So do we have more resources? Yes.

Mr Gerretsen: Let me talk about the resources, then, for a moment. We talked earlier this morning about 130 contract employees you now have and that some of these people work from six to eight hours and some people work seasonal. Could you translate that 130 contract positions into full-time positions, let's say based on a 40-hour week? How many people are we talking about if the 130 were compressed into full-time workers at 40 hours a week?

Dr Ingratta: We're currently providing inspections at about, I believe the number is, 134,000 or 135,000 hours of inspection on an annual basis, if you take as a rough number 2,000 hours of work in a year.

Mr Gerretsen: So that translates into about 65 full-time individuals.

Dr Ingratta: Approximately.

Mr Gerretsen: Did you ever employ people in this position on a full-time basis four or five years ago?

Dr Ingratta: Yes.

Mr Gerretsen: How many people would you have had working for you at that time, when they were in fact full-time ministry employee positions?

Dr Ingratta: Do you want the maximum number of full-time inspectors who worked with the ministry at, if you will, the zenith of the number?

Mr Gerretsen: The way I understand it, these 130 contract people translated to 65 full-time jobs—which basically have been created because some ministry people were let go in the past. What I'm trying to find out is how many positions in effect in the old ministry set-up, where these people were ministry employees, there would have been that have translated into these 130 contract positions.

Dr Ingratta: As Dr Baker is finding that number for you, I want to emphasize that there are fewer abattoirs that are being inspected today than there were at the zenith. There are a number of abattoirs that have moved up to federally inspected abattoirs, and we have improved the recording systems; we've talked quite a bit about the food safety decision support system, the computer system. So there are those factors that also have to go into play with the number.

Dr Baker: I do have those numbers here. Maybe 1991 would be the appropriate comparison, since that was the last time we were audited. We had 145 full-time inspectors at that point, and we had 351 abattoirs that were licensed, a lot of them quite small and quite inefficient. I guess that's the comparison.

Mr Gerretsen: How many abattoirs would there be today?

Dr Baker: There are about 209, as we speak.

Mr Gerretsen: So the number of inspectors you have on a full-time basis, by hours or otherwise, has in effect been depleted by more than half since that time, whereas

the number of abattoirs hasn't quite gone to a half—not by a long shot.

Dr Ingratta: One of the other factors that also needs to be considered in this process is that we've been working with the abattoirs—again, this was one of the recommendations that came out of the 1991 auditor's report, that the ministry should be more forthright or aggressive with the abattoirs in terms of scheduling.

In 1991 we responded to the abattoir if they phoned and said, "I'm going to slaughter five cattle tomorrow morning. I need you here." It was done that way. We've now worked with the abattoirs to the point that they're more regular in scheduling their slaughter so that we know that abattoir X—Wednesday morning may be their slaughter date, so we're able to more efficiently allocate the resources as well.

Mr Gerretsen: But I also assume that since 1991 there's a heck of a lot more meat being slaughtered than there was 10 years ago. I mean, there are more people in this province and our exports are doing so well. Anyway, there are half the number of inspectors, probably more work, fewer abattoirs, and the system is going to get better, is what you're saying.

What kind of training do these contract employees have?

Dr Ingratta: The contract employees, as a basis, would spend time in their first three to six months working alongside a fully trained inspector. There is a specific classroom experience of four weeks. That is equivalent to what the Canadian Food Inspection Agency provides for their inspectors. We provide them with training, in addition to that, on computer use. It is exactly the same training and level of training that we provide to the currently eight full-time inspectors.

Mr Gerretsen: Just so I'm clear, this morning you said that these people could not be in conflict of interest by working for the slaughterhouses themselves at other times, but they could somehow be involved in the retail capacity in the meat sale area. Did I understand that correctly?

Dr Ingratta: I believe Dr Baker suggested that the inspector could in no way be employed outside of the inspection function with an abattoir that they were inspecting. That's not to say that if they're inspecting the meat at abattoir X, if they did that in the morning, they couldn't go to the next county and work as a retail sales clerk in a sausage retailing operation.

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Mr Gerretsen: Do you think that's good enough? Do you think that is a good enough conflict-of-interest guideline as it affects these individuals?

Dr Ingratta: I think what I've suggested is that the individual in no way has a relationship with an abattoir outside of their inspection responsibilities. I think that is a significant wall between their inspection and involvement with that abattoir.

Mr Gerretsen: What kind of salary range are we talking about for these part-time contract positions on an hourly basis or however you calculate it?

Dr Baker: With benefits, it's around \$21.50 an hour.

Mr Gerretsen: You talked about the high turnover of these contract employees. Why is that? I suppose you'd have to ask the employees, but within the ministry you must have come to some sort of conclusion as to why there's such a high turnover rate when certainly the hourly rate seems to be fair.

Dr Ingratta: There are a number of reasons. Part of the human resource study that we've also talked about at some length hopefully will address through discussions with the inspectors—if you will, exit interviews and that type of thing—their reasons. But part of the reason that I indicated this morning, as Dr Baker has pointed out, is that some of them have, in less densely populated areas or fewer abattoirs, perhaps as little as six or eight hours a week to do this function. If they find another job entirely outside the industry, that may be one reason. As I've indicated, they all go through essentially the same training program as our colleagues with the federal government. The federal government pay packet is higher than \$21.50. I think that may attract them. Also, the possibility of full-time employment obviously has an impact on the pay packet. Those are reasons. As I said, we're hoping to get a more fulsome understanding of that as part of this human resources review.

The Vice-Chair: The Chair recognizes the auditor.

Mr Erik Peters: I just wanted to raise two very quick points. One is that certainly the factual content of our report has been cleared with your ministry at several levels: with the director, ADM and including that you and I had a meeting on it. So I think the facts were cleared with you as we went along.

With regard to the raw goats' milk, I have some concern. You inadvertently may have left an impression with the committee saying that the sampling was done for benchmarking purposes. The sampling was actually done because it's required by law. The law says that raw milk shall be tested. You may want to elaborate on that a little bit.

Then, in response to our concerns when we found that 90% of the raw milk that was tested did not meet the legislated bacterial standard in the report, you indicated, and with our agreement, "The ministry is currently"—that is, at the time that we obtained this response, which was after the audit—"developing appropriate regulations and inspection requirements pertaining to collection, testing and transportation of producer samples for non-farm goats' milk production. In addition, bacterial standards and penalties appropriate for goats' milk production and processing practices are being developed." I think you indicated that. I was just coming back to the question as to why this persisted at that time.

The third point, very briefly: you also indicated that this was dealing with raw milk and not pasteurized. We also noted, and you agreed, that the ministry had no standard for bacterial content for finished dairy products, including cheese. So the concern is that you may want to clarify a little bit how this would work and maybe why the law required laboratory testings of raw milk.

Dr Ingratta: The law requires testing of raw milk because it is possible in raw milk to have excessive bacterial levels, which make the pasteurization process more necessary but more difficult. If there's a larger bacterial population that needs to be reduced, if you start with a higher population, it's slightly more difficult to get down to zero.

There are a number of organisms in milk that are known potentially to be a food safety issue in the final product. *Listeria* is the one that comes to mind.

So it needs to be tested in order to determine what the levels are. If the levels are excessive, then processes are put in place both on the farm and again in the pasteurization process to make sure the product that is put on the table in front of the consumer is safe. That's the basic requirement.

Yes, we've said that we want to develop those standards for goat milk. I think the number five years ago was that there were 40 goat milk producers; today there are 200. There is an increasing demand for the product, so what was perhaps not an issue a number of years ago because it was a very marginal product has a growing demand in the marketplace. We need to have those standards in place. I don't think we've denied or argued that we want to put appropriate standards in place for goat milk.

Ms Martel: I would like to pursue the line of questioning around the inspectors. Maybe I'd start in 1995 because, and correct me if I'm wrong, that was when the outsourcing initiative began. At the point before outsourcing began, what was the number of inspectors that the ministry had, and were they full-time or part-time?

Dr Ingratta: The inspectors before the process of using contract inspectors were ministry staff.

Ms Martel: Yes.

Dr Ingratta: I'm just looking at the numbers here. In 1995, there were 103 full-time inspectors and 79 contractors.

Ms Martel: Were the contract staff also ministry staff just working part-time, or were they fee-for-service essentially?

Dr Baker: They were fee-for-service, or "per diem," as we called them at that time.

Ms Martel: Now you have 139 fee-for-service inspectors, and we gather there's a mix in terms of their hours: some part-time, some more casual. None of those would be full-time, though, would they?

Dr Ingratta: Of the 139, eight are full-time.

Ms Martel: OK. Earlier, in response to a question from Mr Peters, I thought I heard you say the cost for the 139 fee-for-service inspectors had resulted in an increased allocation. Was that correct?

Dr Ingratta: I don't believe so. In terms of our total costs for inspection?

Ms Martel: Yes.

Dr Ingratta: I don't believe so. We'll dig these numbers out for you right now.

If the impression was that there is an increase in the meat inspection budget, I may have left that impression

because our total expenditures in that area are higher. As I've said, we've brought on 37 staff—research staff, a range of other people, veterinarians who are providing support to the inspectors—so that the total cost of the meat inspection program or the total dollars allocated to the meat inspection program are now higher.

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Ms Martel: Within that total cost, is the cost of the fee-for-service inspectors included along with the eight full-time?

Dr Ingratta: Yes.

Ms Martel: And the 37 new positions are not meat inspectors?

Dr Ingratta: That is correct.

Ms Martel: It's completely different. Can you compare that cost against your 1995 cost for your complement of inspectors?

Dr Ingratta: You want the comparison of just inspection costs in 1995 and just inspection costs of today?

Ms Martel: No, I'd be interested in what your costs were in 1995 for the full-time and contract inspectors, and your costs right now for your inspection staff.

Dr Ingratta: We can certainly commit to getting you that number. I'm hoping we'll have that number available this afternoon.

Ms Martel: OK. But I should be clear that your reference was to an increased allocation, essentially as a result of the hiring of 37 new staff.

Dr Ingratta: In the food safety area. As I've repeated several times, food safety is more than inspection, so yes.

Ms Martel: If you can give some comparisons between inspection and inspection, that would be really useful.

You also said your number of inspections has remained the same. Can you tell me how you arrived at that number? I'm not sure what your comparison was to—was it to 1995, was it to two years ago? What was the comparison to?

Dr Ingratta: I would have said that our inspections remain the same in that every animal continues to be inspected. The point was made earlier that we are inspecting more animals in total, but every animal continues to be inspected. So when you say, "The numbers of inspections remain the same," I suggested to you we had currently 134,000 hours of inspection provided to the abattoirs.

Ms Martel: And that is the same as what other year? What are you making the comparison to?

Dr Ingratta: In 1995 we had 177,000 hours of inspection. Again, I hasten to point out that the number of abattoirs has declined.

Ms Martel: Excuse me if I don't understand this. Does it go by animal? Because you also gave a figure with respect to numbers of animals inspected. I'm looking at this figure for 1995, just off the top, of 177,000 hours of inspection. You gave us the hours of inspection for this year, which was 134,000. Can you tell me what that difference is? What does that mean? Am I missing something?

Mr Taylor: There are a few issues involved. There are certainly fewer abattoirs, so the same number of animals done through fewer abattoirs would mean less travelling time, less lost time and so on and so forth. There has been a significant requirement working with the industry—at least one study carried out looked at how to improve the efficiency of those meat-processing plant operations, the slaughtering operations, to try and ensure that when our inspectors were there, there was slaughtering going on and that they weren't involved with standing around, waiting for the plant to get something done. In fact, what they've gone through is a process of, based upon their efficiency, assigning them inspection hours to ensure that they use our inspector's time in an efficient manner. The reduction in the number of hours, the 177,000 or whatever down to the current 134,000 hours, is involved in a number of efficiency improvements, a large part of which is efficiency within that industry. I think that's part of what the Provincial Auditor was commenting on as well.

Ms Martel: You would say to us that it would not have any relationship back to having fewer inspectors? There's not a relationship there?

Mr Taylor: Not a relationship—

Ms Martel: Between your fewer hours of inspection right now and what you were doing in 1995.

Mr Taylor: The efficiency gains resulted in fewer hours required, which resulted in fewer people required to carry that out.

Ms Martel: I think the auditor said your budget for specifically inspection, licensing and testing was \$10 million. The overall budget was \$20 million, but \$10 million of that was for competitiveness issues etc. How does that \$10 million compare to previous years? Is that more or less than you've been allocated in previous years? Increased?

Dr Ingratta: The \$10 million for inspections?

Ms Martel: Yes.

Dr Ingratta: I think we have that comparative number. For meat inspection in 1995, \$8.62 million; in 2001-02, \$11.43 million.

Ms Martel: Specifically, we're comparing the same thing: we're comparing licensing, inspection and testing expenditures in both cases, and nothing else?

Dr Ingratta: Yes.

Ms Martel: The 110 staff that were referenced in the auditor's report, with respect to this budget, are those 110 staff who are involved in issues regarding competitiveness not involved in licensing, inspection and testing? What is the breakdown of those staff?

Dr Ingratta: Don, that's your division, so I'll turn that one to you.

Mr Taylor: I believe the 110 staff refers to the division complement. So the food inspection branch is a major part of that, but there are two other branches, plus the division administration.

Ms Martel: The payment for the contract inspectors and the eight full-time would come out of that \$10 mil-

lion of licensing, inspection and testing budget, essentially? That's a staff line, predominantly?

Mr Taylor: The \$10 million?

Ms Martel: Yes.

Mr Taylor: The \$10 million is a total line.

Ms Martel: So that would cover all of your inspection staff under that \$10 million?

Mr Taylor: And costs related to that.

Ms Martel: Whatever related travel, and lab testing, that fee comes from there as well?

Mr Taylor: I believe so. Tom?

Dr Baker: No. The lab testing is outside of that.

Ms Martel: So it's separate.

I noticed that the auditor also said you did a review of your lab testing. Can you explain to the committee what the purpose of that was?

Dr Ingratta: In 1998 we entered into an agreement with the University of Guelph. We transferred a significant component of our research, education and laboratory function to the University of Guelph. Until then, that laboratory function was within the ministry. Because of our transfer of almost \$50 million a year to the University of Guelph, we now get the majority of our research, education and laboratory function performed by the University of Guelph. There are, however, a number of other commercial labs available in the province. So we've made efforts to ensure that we simply aren't having all our laboratory work done at the University of Guelph if in fact it is not the most cost-effective. We don't just deal with cost-effectiveness in the laboratory analysis. Not all labs are capable of doing the whole range of tests that are required, but I think it's important to continue to review where our laboratory work is done so that we can be as cost-effective. There is also laboratory work that's done for quality components of milk, in addition to food safety components, so the percentage of butter fat versus the bacterial composition—they are obviously two different tests. What we're looking at is the potential for amalgamating those tests in one lab rather than in multiple labs. So that's the type of thing that would be part of a review of laboratory work.

Ms Martel: When you transferred that responsibility to the University of Guelph, did you transfer funding as well? Is that what the reference to \$50 million was?

Dr Ingratta: That is correct.

Ms Martel: Has that number declined since the date of transfer, which would have been in 1998, or are you still making a transfer payment of \$50 million to them?

Dr Ingratta: We were making a transfer payment of \$50.5 million last year. We're in the process of negotiating a new five-year contract with the university.

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Ms Martel: OK. When you transferred the administrative responsibilities for the Milk Act and penalties etc to DFO—I think you said you transferred money as well to allow that to happen—what was the amount?

Dr Ingratta: It was \$300,000.

Ms Martel: How did that reflect against your own budget? Did you have your own inspectors previously doing what DFO inspectors are now doing?

Dr Ingratta: That's correct. We had essentially the same function. The Dairy Farmers of Ontario added a group of field staff who were already on the farms, so it was seen that this would be a function that those staff would incorporate and supplement their activity on the farm.

I believe the question you're getting to is, did it cost us more than \$300,000 to do those inspections versus dairy farmers? The total cost is less. The transfer we've made to the dairy farmers is less than our total costs were.

Ms Martel: What number of staff did you lose as a result of that? I'm assuming they are different inspectors than your meat inspectors, although I wouldn't pretend to know all of the differences.

Dr Ingratta: I believe there were six staff positions that were doing the milk inspection. A number of the staff went to the dairy farmers and a number of staff went to other positions. There were no staff who were surplus as a result of that.

Ms Martel: I wanted to go back to your new positions, the 37 in the 18 months. Are all of those permanent positions?

Dr Ingratta: Yes.

Ms Martel: Were they positions that you might have had before in the ministry or are they all new?

Dr Ingratta: The majority of them are new. We have not converted a policy analyst into a research scientist. The majority of them are new positions that have been filled by competitions.

Ms Martel: Would it be possible to provide the committee, not with the names but with what the positions are?

Dr Ingratta: Yes.

Ms Martel: Just so I'm clear, they have nothing to do with inspections on the technology side or—

Dr Ingratta: As a short example, if I might: two HACCP advisers; seven food scientists; one data scientist; one food engineer; three veterinarians; four regulatory specialists—different from being a hands-on inspector but helping to develop regulatory protocols, that type of thing; two on-farm food safety experts; and other enforcement and policy personnel. We've had people come on staff to help build that policy work that went into the legislation that was just passed.

Ms Martel: Let me go back to the contractors in this respect. With respect to outsourcing and what your situation is now, are you also doing a cost analysis, or has it already been done, of what your costs were with respect to having internal staff in 1995 and what your costs are right now with respect to the mechanism you're currently using, which is to outsource most of that work?

Dr Ingratta: Again, part of that human resources review is the whole issue of cost of the different staff, everything from annual salaries, to benefits, to skills and knowledge and that type of thing. So that's a part of the analysis we're currently doing.

Ms Martel: Could you tell the committee at this point if you can clearly point to what the savings were, from your perspective as a ministry, for outsourcing?

Dr Ingratta: I don't think I've got that number in front of me. To be clear, because we want to provide you with this information and we will get it to you, the question is, what did our inspectors cost in total prior to outsourcing and what was our inspection cost in total prior to the use of these contracts? That's the number you want.

Ms Martel: Yes. I'm going to assume that the decision in 1995 was based on the premise that there was going to be a saving to do it this way. Was that the premise of the change?

Dr Ingratta: Not the only premise of the change, to be certain. Part of the premise was to improve the efficiency, having the bodies in the places they needed to be at the time they needed to be. The suggestion in the 1991 auditor's report was that if we pursued that type of thing, we should expect savings. So I don't deny your premise; I'm suggesting that there are other factors in addition to cost savings.

Ms Martel: I'm not familiar with the 1999 report, so I guess the other question I have is, did the report say there could be efficiencies if you restructured and outsourced, or if you restructured? Because there's a difference in my mind. You could restructure people's work and still have them as part of the public service. What did the 1991 report say that would have led, I assume, to the decision in 1995 to outsource?

Dr Ingratta: It specifically talked to the opportunity for contract.

Ms Martel: Outsourcing it?

Dr Ingratta: Yes.

Ms Martel: OK. If you have—

Dr Ingratta: I want to stop for a second and ask the auditor if their recollection is the same, because that's my guess.

Ms Martel: OK. If you have a rate of turnover that is high—which you've already told the committee, and you've outlined some of the reasons for that—as you do your review, are you going to take a look at that very problem? I'm going to assume that your full-time staff would be paid by hour higher than your fee-for-service. Would that be correct?

Dr Ingratta: Yes.

Ms Martel: So if you were trying to resolve that problem and still have the same number of inspections and still be efficient, is there a possibility that you could actually make a lot of those part-time or casual positions full-time, still cover what you have to cover in terms of inspection and still be cost-efficient?

Dr Ingratta: We would continue to be cost-efficient. You're going exactly to the heart of the review. We need to be, in order to continue to provide the most cost-efficient system with our overall objective of food safety and make sure the system is as efficient as it can be, with due regard to effectiveness and efficiency, as the auditor has suggested. That's part of the review. If the review

were to identify opportunities for staff to be full-time and it continues to be more effective, or if it became more effective and efficient to have some of those, those are the types of recommendations we would pursue.

Ms Martel: I anticipate that there's a cost too to have that turnover of staff in retraining and rehiring on an ongoing basis. There's a significant cost there in terms of loss of expertise too on an ongoing basis. Can you tell us, Deputy, when is that review going to be complete?

Dr Ingratta: We would expect it to be complete before the middle of this year, so before June of this year.

Ms Martel: So any recommendations you have would have to be dealt with by your minister and, if there are changes, that would have to go to cabinet as well with respect to whether you continue with outsourcing or look for some other model.

Dr Ingratta: I believe you asked a question earlier about our internal process and that fairly accurately captured our process, yes.

The Vice-Chair: Are there any more questions?

Mr Hastings: I'd like to pursue a little more the 37 new positions that OMAFRA has gotten in the last year or so. You were mentioning that there are some food scientists etc. You also mentioned, I believe, that there was a microbiologist you've hired. My question would be, how do the new positions help to assist both the in-house and your contract compliance people in carrying out their daily inspections?

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Dr Ingratta: We have in place an inspection system that is currently based on visual and organoleptic observation. What the scientists are involved in is developing standards and protocols where we could supplement those visual identifications with actual sampling. We're piloting technology that some of the larger plants may be able to use to actually do some microbiological diagnosis in-plant, so you don't have to send a sample off and wait for four days to determine whether there's potential contamination.

That's the type of thing that the scientists are doing. They're working on those new diagnostic techniques in order to deal with these new HACCP systems, to deal with the organisms that are now more of a concern than they were 10 or 20 years ago. They have become part of that continuum. So we've got, if you will, the basic visual inspections taking place, but we have the backup inspections on the microbiological side.

When I talk about an improved system, that's what I mean, that we have another level of information and data that's being collected as part of the regulatory process. That's where I'm hoping they will have their impact.

Mr Hastings: Do I assume correctly that some of these new positions will have a lot of interaction with the Canadian Food Inspection Agency in terms of the new organisms, the viruses that seem to be striking our food chain to some extent?

Dr Ingratta: Certainly we've always interacted with our federal colleagues. I think the thing we always have to be cognizant of is that our food scientists are working

with their food scientists. It's one of the advantages that we have in Guelph. About four years ago, Ag and Ag-Food Canada moved a large group of their food scientists to Guelph as they did some restructuring of their facilities. Our food scientists are in the building next door. Our expectation is that they would work together. We certainly don't want our food scientists in one lab doing the same thing that their food scientists are doing in another. Because they're in the same geographic area, we have more than the expectation that they'll work together; it will be critical that they continue to work together so that we can better generate this new information.

Mr Hastings: In respect of the role of the CFIA, you were saying this morning that where abattoirs are exporting meats internationally or interprovincially, the CFIA plays the role of inspector and provides your people with information if there are any problems that should arise. If they're also doing domestic, which they may be—I don't know how that breaks down—could you give us some idea of the number of abattoirs there are across the province and their size, and does that to some extent dictate how you allocate staff, your contract staff particularly, in terms of the smaller abattoirs that function maybe one or two days a week?

Dr Ingratta: There are 209 provincially licensed, inspected abattoirs in the province at this point. They would vary anywhere from plants that would operate 40 hours a week to a plant that might slaughter five head of cattle beasts a week—so a very broad range of size.

One of the challenges—and I don't want to prejudge your question, but you talked about the CFIA. I mentioned that 85% of the livestock that is inspected in this province is done in federally licensed plants. You may ask the question, "Why aren't all the plants federally inspected? Why do we have a provincial system?" Part of that reality is that the federal plants, because of international obligations, have some standards that aren't specifically related, in this case, to food safety, but they have some standards that may be onerous, particularly if you're operating a plant that's slaughtering 20,000 hogs a week compared to five animals a week. Some of the infrastructure costs would be significantly different for those international plants to meet all of the international requirements.

Pardon me if this is a long answer, but one example I would give is that in order to export meat to a number of the EU countries, they have a requirement that, where all animals are handled in the holding pens, all shovels that are used in those holding pens cannot have wooden handles; they have to be stainless steel or something like that. That's a requirement if you're going to be a federally inspected plant and export into the EU. For that abattoir that may only slaughter five animals a week, you might see that that standard or protocol would be onerous, and not to be able to use a wooden-handled shovel in that holding pen would be seen to be a little excessive.

There are a number of reasons why we have a provincial system. Included in those are also the wide variety

of more exotic animals, barbecued hogs and halal meats. The larger federally inspected plants can't handle the smaller quantities, Peking duck, that type of thing. Most of that type of thing is done in a provincially licensed plant. I apologize if I took your question in a different direction.

Mr Hastings: Still focusing on your relationship with the CFIA and how food is exported interprovincially and internationally, what is your assessment overall of the types of information and the rapidity with which you get that information in terms of rapid response for incidents that could affect our food chain, whether it be meats, dairy products or other types of products? Do we have a good tracking system in place or is it developing?

Dr Ingratta: I would say we're almost in constant contact with our colleagues at CFIA. If they identify a food product for recall from an Ontario manufacturer, even though it's under their responsibility, we would be involved in that within 24 hours. We have a very good working relationship. One incident that was reported in the last few days around apple cider was a CFIA responsibility. It was our information that was the basis of their recall. So it's a two-way street in terms of sharing information with our federal colleagues.

Mr Hastings: What is your sense of the overall security of our food supply when it comes to potential bioterrorism threats? Is it the industry's responsibility, the respective companies—large, small and middle—to really screen the type of people they're hiring? You can get some experience in a retail butcher shop or in a large food chain. You could go and work in an abattoir and be hired pretty quickly. What's your sense of comfort about that whole area?

Dr Ingratta: It is an area that is on the forefront of people's minds as a result of the last six months' activity. There are different levels of responsibility. Certainly the federal, provincial and municipal governments have a responsibility in the area of bioterrorism. We've worked diligently with our federal colleagues, CFIA, to deal with issues like BSE and foot and mouth. That's not necessarily bioterrorism, but developing protocols to deal with people who would wilfully attempt to impact on the system. We have protocols developed there within the province. The Ministry of the Solicitor General has the lead in this area. We participated in the area of food and food safety in developing those protocols. We've developed those systems to react. The challenge of course is that if there's something totally unorthodox—it may happen—the question is how quickly we're able to respond. I think we have processes in place that are dealing with that.

Your question was more specifically to the plants themselves and the people they hire. In conversations that we've had with owners of slaughterhouses, abattoirs and food processing facilities, they know this is an issue. Many of them have in place protocols to deal with it. They are not just simply picking people up off the street and coming to work in their facilities. They know it's an

issue and many of them have in place written protocols to deal with it.

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Mr Hastings: Do you know in fact whether they are requiring prior police inspections or clearances?

Dr Ingratta: I do not know that.

Mr Hastings: OK. Turning to the national dairy code that you mentioned in your response to the auditor's report, what specific issues still require resolution before Ontario may adopt the national dairy code or join the national dairy code?

Dr Ingratta: I'm going to have to turn that question to Dr Baker.

Dr Baker: In most areas, Ontario cow milk regulations are equivalent to or, in many cases, even above the national dairy code. That being said, there are a couple of areas I can think of that we will be bringing as we amend our regulations. One is on the control of shipping temperatures for milk. Right now, there appears to be a regulatory gap there, and I believe the auditor spoke to that. The other is on bacterial standards for finished products, which was also in the report. So those are two areas we look forward to in our new regulations, integrating what's in the national dairy code because those issues are addressed in that national code.

Mr Hastings: When it comes to the export of milk products or other meat products, do we have any higher standards that the EU has to meet when they want to ship their stuff to North America, or is it generally the other way around?

Dr Ingratta: There are a number of interesting little ones like the wooden shovel that I talked to you about. But Canada did impose a ban on bringing in meat products from a number of countries, particularly processed meat products, when the BSE issue and certainly foot and mouth were concerns. Canada has the ability to put in place some restrictions, so that is possible.

Mr Hastings: One other internationally focused concern: recently I noted that there was a media report that the US Department of Agriculture did not do its follow-up on a meat provisioning plant in Mexico, I think south of El Paso. They inspected it and then didn't follow up on their inspections over two years. The operation changed its name, did a number of things, but they still managed to ship processed meat products to the US. Do you ever see any chance of that occurring in Canada, given the CFIA's responsibility for the inspection of incoming products from other parts of the world?

Dr Ingratta: Certainly the systems and the protocols are in place to attempt to ensure that does not happen. I can't speak to the fact that it would never happen. The intent is to ensure that that does not happen. The CFIA would take that as a part of their responsibility.

Again, if you speak internationally, the Canadian Food Inspection Agency has developed a fairly positive reputation internationally. They seem to have put in place good protocols—science-based, rational protocols. So they do have a good reputation internationally.

Mr Hastings: And that's what we need to follow in some of the recommendations that you have to complete over the next 18 months? You talked about science-based outcomes of many of these areas, especially in the meat area.

Dr Ingratta: Not necessarily "follow," because again, using that shovel example, we don't want to necessarily follow that, but on the food safety side, yes, I think it would serve Ontario and the other provinces of Canada well to have the same food safety standards and protocols as they have federally.

The Vice-Chair: Thank you, Mr Hastings. Any more?

Mr Hastings: No further questions.

The Vice-Chair: There was a question that I think the deputy minister raised and then he kind of looked at the Provincial Auditor, so I should give him the opportunity to answer that. It was during Ms Martel's questioning.

Mr Erik Peters: It's a very quick answer. Yes, there were implications in the 1991 report that more cost-effective ways of inspection should be looked at. At that time my office did not make explicit recommendations, but it was implied. So we agree with you.

Dr Ingratta: If I might, Mr Chair?

The Vice-Chair: Yes, you may.

Dr Ingratta: On the question from Ms Martel relative to the dollars allocated and spent on meat inspection—apples with apples, if you will—in 1994-95 it was \$8.1 million; in 2000-01, \$4.9 million.

Mr Gerretsen: I certainly concur with you that particularly with what's been happening, not just in the last six months but I suppose in the last two years, when we look at what's been happening to the water inspection and the Walkerton tragedy etc, as well as September 11, inspection standards at all levels, for food or water or what have you, have to be made better and obviously will be looked at to a much greater extent.

Did I understand you correctly when you stated just a few minutes ago, I think it was, to the last question that Mr Hastings asked, that you believe we should have the same standards federally and provincially as far as the food inspection area is concerned? Is that what you said?

Dr Ingratta: I attempted to be specific in saying that the level of food safety, the protocols around food safety and harmonization of those food safety ones, was important. I was less supportive of all standards. As I pointed out with this issue of the shovel, if you want to operate a federally inspected abattoir, you have to deal with those shovels. I don't know if we need to go there, but in terms of food safety I think we need to ensure that we have in place the best available science-based food safety system, the best that's available.

Mr Gerretsen: So you don't necessarily equate food safety with food inspection?

Dr Ingratta: Food inspection is a part of our food safety system, yes.

Mr Gerretsen: I wanted to get back to the shovel that didn't have a wooden handle on it that I guess is required federally. When the federal system comes up with a standard, do we evaluate that in Ontario as well to see

whether or not it makes sense to us? As a layperson, it sounds to me as if the standards that we set for meat that is produced and sold in Ontario are less than the way we handle a similar meat product internationally or inter-provincially. That causes me some concern.

Dr Ingratta: If that's the perception you have, then I think we need to work diligently to dispel that perception. If you have that perception because we have wooden handles in the holding bin, that's one thing. If you have that perception because you think we don't have the same level of competence and expertise in the inspection and the regulatory and food safety system, then I think that's a wrong perception.

Mr Gerretsen: What are you saying, then? Are you saying that, as far as we're concerned, some of the federal standards that may have been imposed by the international situation because we want to export to those countries, the standards in effect that other countries demand of our meat, we don't agree with here in Ontario?

Dr Ingratta: That would be correct.

Mr Gerretsen: And we're basing that on what criteria?

Dr Ingratta: I could give you some more examples about the quality of the stainless steel, that type of thing. Essentially we're attempting to base our standards on sound scientific practices in the abattoir.

Mr Gerretsen: But wouldn't the federal people say exactly the same thing?

Dr Ingratta: They may, except if the exporting country demands it, it may not be a point of decision that the federal government can pursue. If it doesn't have an impact on food safety, it's not a protocol that we should impose upon our abattoir if they're not going to sell internationally. Be clear that our provincially licensed abattoirs do not sell internationally. If they wanted to get into that game, they would have the stainless steel shovels; they would have to.

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Mr Gerretsen: It just seems to me that there is a disconnect when we say that we want to have the same international standards of food safety but not necessarily adhere to the same internationally demanded standards for inspection. Are we that much smarter here than other countries are demanding something that really isn't needed, or are other countries doing it in order to protect their own industry in some respect? I don't know. It seems to me that what's good internationally and inter-provincially ought to be good for our people inside Ontario as well.

Dr Ingratta: There would be more than one non-trade tariff barrier. I would use as an example—and I apologize if we're moving outside of Ontario—the situation that existed in Prince Edward Island last year in attempting to export seed potatoes into the US. We followed every international standard in terms of—when I say “we,” our federal colleagues and our Prince Edward Island colleagues—screening. That was still not good enough for the US. Many cynics believed that the large

potato holdings in Maine and Idaho were the reason they put up this supposedly scientific barrier.

Mr Gerretsen: All right. We'll leave the international scene I guess to the federal politicians to deal with. I am concerned though about the other numbers that you gave in reply to one of the questions. That is, that in 1995 we spent \$8.1 million on food inspection and in the year 2000 we spent \$4.9 million, and that somehow equates to the number of people we had employed as well, because earlier you gave an answer to Ms Martel that in 1995 we employed 103 full-time people, 79 contract, and now we employ eight full-time people with 139 contract employees, and 139 equates to about 65 full-time people. So roughly our inspection staff has been diminished by 50% since 1995.

Mr Hastings: It's called working harder.

Mr Gerretsen: My colleagues are saying they're working harder. I know, you can actually do more with less money. I know that whole argument; I've listened to it for six years.

Are you trying to convince this committee somehow that we are getting a better food inspection system for \$4.9 million now than we did for \$8.1 million back in 1995 using roughly half the number of people we had inspecting then? Is that basically what you're saying? Are the ministry people getting so much smarter, are our technologies getting so much better, our internal mechanisms so much better, that we can actually do something for half the money better than we did five or six years ago? Is that what you're saying?

Dr Ingratta: I won't repeat for you the four reasons why we think we've improved the efficiency of the system, the fewer number of abattoirs etc, but what I will say to you is the question was raised on how many dollars are we spending on inspection, and we provided those numbers. I think I've also been very clear in saying that in addition to those inspection dollars we've brought in 37 new staff. That will be the basis of the improved system. So you ask me, do we have and will we have a better system? Yes, but it will take more than \$4.9 million for the inspectors. To pay those food scientists, the policy people who have developed the new legislation and will develop the regulation, it'll be more than \$4.9 million. In combination with that expenditure on inspection and these other individuals who are providing the enhancements to the system, yes, we will have a better system.

Mr Gerretsen: Let me make it perfectly clear, I realize that you can only do with the resources—you know, with as much as you're given by the political element that basically sets the annual budgets etc. My questioning wasn't intended to attack your ministry. I just find the whole situation a little bit—you know, if we can actually get twice the result with half the money, then that's a pretty good thing. I somehow doubt it.

Let me ask you this: you were saying there are 229 licensed provincial—

Dr Ingratta: Two hundred nine.

Mr Gerretsen: Two hundred nine. How many of those are franchise operations, in effect owned by the same organization or the same company or the same firm? Do you know that offhand? Could you give me a rough number?

Dr Ingratta: I'd have to turn to Dr Baker on that one.

Dr Baker: Offhand, I can't think of any that are not independently owned.

Mr Gerretsen: They're all independently owned?

Dr Baker: I believe so.

Dr Ingratta: There are a number that would have a relationship with a federally inspected plant. There are a few of those, but my understanding of your question around franchises—

Mr Gerretsen: They're not owned by the same company, in other words.

Dr Ingratta: No. Most of these are independent businesses.

Mr Gerretsen: The reason I'm asking is that I'm looking at one of these fee-for-service agreements that an individual signs, and one of the clauses in that is number 9, that the meat inspector during the term of this contract will not engage in the slaughtering, processing, packaging, distributing or otherwise handling of meat or meat products with the plant operator where he is assigned.

To me, that is pretty loose language. It's quite obvious that if somebody does an inspection in plant A, they can't do slaughtering and all those other things in plant A. But it doesn't prevent that person from working in any of these areas in plant B, that might have a connection to plant A in a distant sort of way. In other words, the conflict-of-interest clause that I would have preferred to see in a contract like this—this isn't quite as airtight as it could have been, in my opinion. Do you have any comments on that?

Dr Ingratta: You have raised the issue of conflict previously. That clause fairly clearly indicates how the contract inspectors need to separate themselves from any of the abattoirs in which they are doing inspections. We make that very clear to make sure there is no relationship there. What that individual does outside of their contract time with us, their other forms of employment, we have very little sway over that, and I think we're very clear, as long as they don't have any other relationship with the abattoir they're inspecting.

I'd be interested in hearing your additions to that conflict of interest and certainly would take that information under advisement at this point.

Mr Gerretsen: The reason I asked the question is because the clause talks about "with the plant operator where he is assigned," and I was under the impression that if a plant operator owned two or three plants, maybe he could work in one of the other plants. But if you're saying that all these plants are individually owned, then presumably that kind of conflict wouldn't apply. But would you not agree with me that if these people were indeed full-time employees of the ministry, under the strict proviso that they could not work anywhere else in a

related field, there is much less likelihood of a person being involved in any kind of conflict?

We're talking here about the inspection of food that we consume on a daily basis. I find it extremely difficult to understand how we can allow the inspection of that to be left to part-time individuals. That's nothing against the individuals themselves, but I would have thought this would be a major safety regard that the people of Ontario have, to make sure their inspectors don't have a potential conflict with somewhere else. These people are entitled to earn a living, and if they only work six or eight hours a week doing this stuff, and obviously they're working in the food area, it would make more sense to make them full-time so that potentially they wouldn't be in conflict. Do you have any comments on that? Would you like to see them as permanent employees?

Dr Ingratta: On the issue of conflict, I think I've addressed the point that we feel the clause limits the potential for conflict. You've made a point that if they were full-time employees, there would be less opportunity for conflict. Certainly, if they were working a full-time job with the ministry, there just naturally would be less time for them to be involved in another activity. So that's a fairly straight-line logic if they were full-time.

The position we've taken this afternoon and this morning and going back to the 1991 audit report is that in many cases there's not a full-time job available in that region as a meat inspector. So I would argue that it would not be appropriate to have a full-time employee in that area if there's not a full-time job in that area.

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Mr Gerretsen: Just one final question, and that deals with the—

The Vice-Chair: I thought you started by saying you had one, but that's OK; you still have time.

Mr Gerretsen: Thank you. That deals with the fine situation. You stated that there was a fine recently levied of \$10,000. Maybe you can outline the circumstances of that, because \$10,000 may mean a lot to some people, but to a giant organization that may make millions of dollars as a result of whatever law they contravened, a \$10,000 fine may not be all that relevant. It always reminds me a little bit about the \$5,000 fine that somebody can get for parking in a handicapped spot. You wonder how often that's going to be levied. In other words, the fines really don't mean anything, do they? It's only the other things that surround the fine that make it relevant. What was the \$10,000 fine levied for?

Dr Ingratta: There are elements of that fine that are a matter of public record and I'd ask Dr Baker to provide those.

Dr Baker: There were, as I understand it, 18 charges that were laid under the Meat Inspection Act. This was not a large company. It was actually a backyard operation, so I presume this was a substantial fine for this individual. I don't have the official names of the charges, but they were operating a slaughterhouse without a licence, ante mortem inspection, those types of charges under the Meat Inspection Act.

Mr Gerretsen: I see. Thank you very much.

The Vice-Chair: Ms Martel, do you have questions?

Ms Martel: I have two sets of numbers now from the ministry and I want to go back to make sure that I understand clearly what I've got. I had under "Meat inspection program budget, 1995," \$8.62 million, and 2001, \$11.43 million. Is that correct for a line that reads "Meat inspection program budget"? Because then you gave us a second set of figures, which I'll deal with next.

Dr Ingratta: Yes, that's the overall budget. The specific number that I believe you're trying to get to was for the food inspectors themselves.

Ms Martel: Salaries. So the second set that you gave, which is 1995, \$8.1 million, and 2001, are strictly salary dollars of meat inspectors?

Dr Ingratta: To support the meat inspectors, yes.

Ms Martel: The additional allocation over and above, for example, 2001, \$4.9 million to \$11.43 million, that difference would include what in that budget?

Dr Ingratta: Dr Baker will provide some details, but that begins to support those other activities.

Ms Martel: The 37 new jobs, for example?

Dr Ingratta: That type of thing, yes.

Ms Martel: But not lab testing, because you told me that was already out.

Dr Ingratta: That's correct.

Dr Baker: It would include the audit program, for instance, the veterinary support for that, some of the baseline studies that we're doing on microbial pathogens on beef and hog carcasses, those types of research studies

that we'd broadly categorize as meat inspection, although they're not maybe historically what we had thought of as meat inspection. But they relate to the safety of meat. So it's a broader category.

Ms Martel: All right. That's great, thanks.

The Vice-Chair: Any further questions?

Dr Ingratta: If I might, Mr Chair, there is one issue that I'd like to provide potential correction on. This morning we got into some dialogue around four degrees and refrigeration. I don't want to leave the committee with the impression that—the auditors and our audit of the abattoirs did identify a situation where a carcass may have been above that four degrees Celsius. The Provincial Auditor reported on that. What I hope to have an understanding of in this morning's discussion is that that case was identified. We have a process now in place to ensure that mitigating factors are in place to minimize that type of thing happening. If we gave the impression that it never happened and the Provincial Auditor included it in the report, that would be incorrect. Our own audit would have identified a case where inappropriate refrigeration was used, but I would emphasize that the process is now in place to ensure that that practice is minimized in the future.

The Vice-Chair: I remind the committee members that the meeting tomorrow will be on the integrated justice program. We will begin at 10 am and it will be in committee room 1. This committee stands adjourned.

The committee adjourned at 1445.

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Standing committee on public accounts

2001 Annual Report,
Provincial Auditor:
Ministries of the
Attorney General,
Correctional Services and
the Solicitor General

Comité permanent des comptes publics

Rapport annuel 2001,
Vérificateur provincial :
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Wednesday 27 February 2002

Mercredi 27 février 2002

The committee met at 1041 in committee room 1, following a closed session.

2001 ANNUAL REPORT,
PROVINCIAL AUDITOR
MINISTRIES OF THE
ATTORNEY GENERAL,
CORRECTIONAL SERVICES AND
THE SOLICITOR GENERAL

Consideration of section 3.03, integrated justice project.

The Chair (Mr John Gerretsen): Let's call the committee to order. This morning we're dealing with section 3.03 of the 2001 Annual Report of the Provincial Auditor, the integrated justice project. I'd like to welcome everyone, and we can start our hearings now. Perhaps you could identify yourself. We look forward to your opening statement, and afterwards there will undoubtedly be some questions from the members who are assembled here today.

Ms Virginia West: My name is Virginia West. I'm the Deputy Solicitor General. I have at the table here with me my colleagues Mark Freiman, the Deputy Attorney General, and Morris Zbar, the Deputy Minister of Correctional Services. I'm going to make some opening remarks and then, yes, we do welcome questions that the committee may have of us.

We are representing today, obviously, the Ministries of the Solicitor General, the Attorney General and Correctional Services. Our three ministries are the provincial government's partners in the integrated justice project. I would like to say at the outset that the ministries appreciate the comments of the Provincial Auditor and are acting on his recommendations.

I would like to outline for you some of the specific ways we are putting the auditor's recommendations into practice, but first I'd like to spend a few moments putting the project into context, because it is a very complex project in terms of its business transformation, its information technology transformation, as well as its partnership with our consortium.

The integrated justice project is an enormous undertaking. As the auditor notes in his report, the project will affect about 22,000 employees in 825 different locations across the province, as well as municipal police services, judges, private lawyers and the public across Ontario.

As a technological and business transformation, it is the largest and most complex project of its kind ever initiated. You probably hear this a lot. Some think the project tries to hide behind this statement, but I offer it simply as a fact. This is not fine-tuning or changing a process here; it is foundational and huge.

While the integrated justice project is described and referenced as one project, it is really seven separate systems that will eventually work and communicate in concert with one another. They are: on the police side, a computer-aided dispatch and records management system; on the crown side, a crown case management system; in courts, an electronic filing system, digital audio recording and court case management; and under corrections, an offender tracking and information system.

The key integration system component for all of those is the court case management system, which will supply vital information to police, crowns and corrections. What we are trying to do is to take our courts and our justice system from effectively the 19th century to the 21st century and to do this in a matter of a few years. It is not something that can be accomplished overnight. In fact, the first two years of the project were devoted to the initial steps, such as selecting the private sector consortium, project planning and tendering for the software packages to help us shape and deliver the project.

The original announcement articulating the vision and scope of the project was in September 1997. After an initial planning phase, we finalized our agreement with the private sector consortium in March 1998. The agreement included the following principles: transferring a portion of the financial risk to the consortium through their large contribution to the investments; no guarantee of payment to the consortium; and payments to both parties from savings and revenues are only available once those systems are implemented and the savings and benefits realized.

About a year later, we selected the various vendors for the component systems, and the real work of developing and modifying the systems began. It should be remembered that there was no blueprint to start with, just a vision and commitment to modernize the justice system that we are working now to implement.

In April through May 1999, the project started working with our suppliers. Comparing their detailed knowledge of software with our business processes showed us areas where we had to alter our original assumptions. We

had expected to buy off-the-shelf technology used in other jurisdictions and, with minor adjustments, integrate and implement it. Instead, we realized that major modifications were needed. More time was required to modify, test and implement the individual applications to meet Ontario's needs. This did add to project costs and, in turn, pushed implementation dates further out. Because the savings and revenues generated by the project, once implemented, can't be realized until the systems are implemented, those project delays also delay the creation of the benefits.

In addition, in the spring of 2000, field testing of the system for court case management showed significant flaws. A complex and time-consuming redesign was required. By the late fall, after our vendor missed key delivery deadlines for this new software, it was clear they would not be able to deliver the solution within the time frames that would work for the project. We are still considering alternatives to deal with the court case management system.

Recognizing that this key integration system would not be ready when the other business applications were, we took another look at our strategy for implementation of the project. Instead of integrating all the elements on the same schedule, we decided to implement the individual business applications as they were ready, improve their functions as needed and then move to integration when all the systems were ready. We adopted this new approach a little over a year ago.

Shortly after that, the Ontario Provincial Police began implementation of their new computer-aided dispatch and records management systems. In March 2001, municipal police forces began adopting these systems. Last August, the new offender tracking information system linked the province's correctional facilities and probation and parole offices. These are real accomplishments and real results which we wouldn't have had without the integrated justice project.

In addition, we are moving forward with the other applications. In November, field tests began in Hamilton of the system for filing court documents electronically. Additional locations were added to the testing—Toronto in December and Cochrane in January. Also in January, a pilot case management system for crown attorneys began exchanging information electronically between London Police Services and the local crown attorney's office. Later this year, we expect to start implementing IJP's new digital audio recording system for court reporting.

In retrospect, estimates of how long this project would take were optimistic, and time is certainly money on this project. I think that's something we have to remember—time is money on this project. The largest component of the IJP is staffing costs—staff from the consortium, from the ministries and from third-party vendors. Taking more time than originally projected has led to extended delivery schedules and resulting higher costs. However, taking time to listen to justice stakeholders and system users has meant that the systems, when implemented, provide real business value to the users in terms of better and faster access to information and, so, improved safety.

The conflict between these longer delivery schedules and the fixed end date of our contract with our private sector partner has also meant delays in the flow of the savings and revenues that are generated when systems are implemented. This project is not one great leap forward but a series of smaller ones, and as we get further down the trail from concept to implementation, we are learning more about how we should do it.

The Provincial Auditor's analysis and recommendations have formed part of the learning process. The auditor was right to question some of the original assumptions and calculations on which the project was based. One of the lessons we've learned involves the front-end work on a project of this size. We have passed on these lessons to inform future projects.

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The ministries, with the consortium, are imposing better controls over the business case as part of the negotiations as well as taking immediate operational steps to ensure the accuracy and validity of information.

It could be said that the new police and corrections systems that have been implemented were needed and that they likely would have happened one day. However, it is also true that the large-scale investment of financial, technical and human resources required would not have occurred without the integrated justice project. Key to their development was the fact that our private sector partners put up most of the financing, and the Provincial Auditor acknowledges this.

Under our agreement, there is no guarantee of payback to the private sector partners. The new systems have to work and the financial and other benefits outlined in the contract must be realized before payments can be made. For this reason, I would say that by ensuring that the private sector takes the lion's share of the financial risk our risk-and-reward arrangement is serving the province well. The private sector consortium has put up more than 75% of the money invested in the integrated justice project: a total of \$129 million in unsecured investment to date. They have no guarantee of receiving return on that investment.

One review of IJP and its common purpose procurement approach summed it up this way: "Given the scope and complexity of the project, extensive financial and human resources, expertise and experience would be required to complete the project, none of which would have been available from within existing ministries' resources." These aren't my words; these are the Provincial Auditor's words.

In terms of what the consortium is billing the government for its services and staff, the auditor noted that these were in excess of standard vendor-of-record or fee-for-service agreements.

In a risk-sharing arrangement where the private sector partner is committed to invest with no guarantee of return, it's reasonable that potential rewards to the partner would exceed those obtained through fee-for-service where there's no financial risk.

Looked at another way, the province wanted an insurance policy. It wanted to insure itself against sole

responsibility for potential financial losses from developing these systems and possible failure of the project. This insurance took the form of transferring the lion's share of the financial risk to the private sector. To do this, the province had to pay the equivalent of an insurance premium, in the same way an individual has to pay premiums to ensure his house or car against loss or damage, transferring that financial risk to the insurance company for a fee.

I'm not going to spend any more time on this aspect other than to say that the three justice ministries worked with Management Board Secretariat on the secretariat's review of common purpose procurement. We outlined the lessons we've learned throughout the project to date.

In terms of issues that the Provincial Auditor raised regarding this method of procurement and his specific procedural and financial concerns with IJP, we have taken a number of actions.

Responding to the auditor's concerns, the ministries have recovered duplicate and other inappropriate charges. All contracts now conform to government guidelines, and previous irregularities have been corrected.

We've implemented more effective project controls to reduce risks concerning timelines and costs identified by the auditor. We're improving project management. We've put better mechanisms in place to track time, scope, costs and benefits against the plan and to identify and resolve issues that could have an impact on these.

We've also conducted our own reviews. We obtained independent third party advice on how to improve the ways in which we identify and manage risks and resolve issues.

The ministries have redefined the governance structure for the project. Component projects of IJP are guided by ministry-specific steering committees led by the business areas where the systems are being implemented. Rigorous acceptance criteria will ensure that these systems address business needs.

The auditor also outlined his concerns with the security of the new computer police and corrections systems and the information they contain. In response, we are working to implement government-standard security technology called PKI, or public key infrastructure, for the records management system. We are also evaluating the best way to apply this security technology to the police dispatch and offender tracking systems.

For now, there are physical and technological safeguards in place. The computer equipment for these systems is housed in secure locations such as police stations and correctional facilities. Individual workstations are password-protected. Should someone without authorization manage to log on to a workstation, they would have to further provide a correct user name and password to gain access to any information.

As the auditor noted in his report, the ministries and the consortium are currently in negotiations. When we started this project, both parties envisioned that there would be sufficient financial benefits for both of us: for the consortium so they would recover their investment

and earn a reasonable profit; for the ministries so they would get the modern systems they needed and have benefits to cover the ongoing operating costs of those systems. As well, however, the ministries are getting important qualitative benefits. Better information exchange within the criminal justice system will mean improved public and police officer safety. More efficient court systems will lead to better service for the public and a more effective justice system.

By the fall of 2000, the existing arrangement between the ministries and the consortium, due to the delays I've already discussed, was no longer meeting the criteria we'd originally set up as our bottom line. That is, the benefit-to-investment ratio must be at least 1.1 to 1 and that the consortium's investment would not exceed \$200 million. Under our contract, either one of us could have said, "Enough," but we didn't. Both parties recognized that we had come so far and were so near some critical breakthroughs that it was worthwhile to attempt to see this project through. That is why we entered negotiations last year.

Some of the auditor's concerns are being addressed at the negotiating table, while others are already being dealt with within the operational management of the project. The government and representatives of the project are currently attempting to renegotiate the terms of our master agreement with the private sector consortium. We want to find ways of adapting our agreement to meet changing conditions, while retaining the original risk/reward-sharing arrangement.

A long journey not only starts with a single step; to some degree, it's a step into the unknown. If we only did what many others had already done, we would never make progress. We have learned much from our work to date and we've made a lot of progress on the components of the IJP. As I said earlier, the ministries appreciate the comments of the Provincial Auditor and we are acting on his recommendations.

In our negotiations, the ministries will continue to balance risk and incentive and ensure that projected benefits can be achieved. These benefits, though initially shared with the consortium, will continue to be reaped by the ministries upon the project's completion.

We are taking the opportunity to make improvements and put a stronger project plan in place that will yield the results anticipated when we started developing the IJP. Better information-sharing and automating paper-based processes are vital to creating a justice system for the future, and the commitment of all the partners to the integrated justice project and its goals remains firm. Thank you, Mr Chair.

The Chair: Thank you very much. We have exactly an hour left in the first round, so we have 20 minutes per caucus. Today we start with the official opposition.

Mr Michael Bryant (St Paul's): Thank you for coming here today. I guess I should say at the outset that I support, and the official opposition supports, the integrated justice project. We're here because we want it to happen and be completed. I don't want that to be lost as we go through these questions.

I want to start off with the issue of system security. I'm just trying to understand who would have access to the terminals from which, with a password, one could obtain confidential information about victims and the accused and so on. How would one get access to that?

Ms West: First of all, Mr Bryant, we appreciate your support of the system. Maybe I can respond and then ask my colleagues to add anything further.

Certainly we do treat the security and confidentiality of the data as of high importance to us. Within each of the program areas, obviously there will be authorized users, and it depends upon the program area. Within the OPP, of course, it would be officers who are authorized to use the computer-aided dispatch system or have access to the records management system. The way their access is controlled is by their identification and then by the assignment to them of appropriate passwords. Those passwords would be robust passwords and would have a frequency of update and change so that, as is standard with our protection of information on technology, we are complying with the government standards.

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There are other things that are in place as well to ensure that just those authorized users have access: the physical security that I mentioned earlier as to where the terminals are within OPP detachments and within correctional facilities so that there wouldn't be physical access otherwise. There are protocols in place as to how users use the terminals, both in terms of accessing the data as well as appropriate shutdown and password controls, subsequent to that.

Within the systems themselves there are security provisions, such as PKI, as I mentioned. In terms of data banks elsewhere, such as Downsview, there is physical security associated with that and there are firewalls as well. I think we have a fairly appropriate and robust security approach in place at this point in time, but we continue to do threat and risk assessments to ensure that we identify any other areas of risk and deal with any of the recommendations coming out of that assessment.

I don't know if any of my colleagues want to add to that.

Mr Morris Zbar: Just very quickly, specifically to corrections: correctional officers, correctional staff in institutions, probation officers and some head office folks who are involved in assessment have access. The terminals are located in jails and probation offices and at corporate office.

Mr Bryant: Is there any way to determine if somebody has accessed this confidential information inappropriately? In other words, is there any way to determine whether or not somebody who should not have access to this information has attained access to it?

Ms West: There are log-in files to track the users as they get into the databases. There are log-in files so we know when the user is there. If there was someone who was not appropriately authorized, then I guess they'd be able to turn on the computer, but if they don't have the password to get into the system, then they won't be able

to get into the system. So there is tracking, as well as password control.

Mr Bryant: But just so I get it, the goal of the integrated justice system, amongst other things, is to—I'm not going to sum it up in a sound byte, but it's to take the paper-pushing in the justice system and centralize it; that's one of the goals. If you've got a physical record that's locked up in a case, we know if it's been broken into or not. Will the log-in transcripts in essence tell you whether or not someone has broken into the filing cabinet through the system itself?

Ms West: Certainly the log tracks the users, I believe, but we can confirm that if there's been an unauthorized access—

Mr Zbar: The tracking does log the users. If you're asking, if someone has a password, can we identify that individual if that individual isn't a user, the answer is no. But like all of our systems, they are password-protected systems and we can track the time the system was used, location etc.

Mr Mark Freiman: If I could just add really quickly, we talk about locking physical files into a cupboard and we lock them with a key. The whole idea of PKI, which has the K for "key"—it's "key infrastructure"—is that, where appropriate, it replaces the lock in the key. It is a very sophisticated system, so that in those sensitive areas where we have to guarantee the integrity of the information and guarantee that inappropriate users don't have access, it provides us with state-of-the-art protection, probably better than a lock and key inside a filing cabinet.

Mr Bryant: I've heard the descriptions "very sophisticated security" and "robust password," but looking at the auditor's report at page 89, the auditor reports that neither system—CAD or RMS—"revoked user accounts after a number of unsuccessful log-in attempts, and both applications allowed easily guessed passwords, such as a single letter, to be used," which would mean that as long as you could come up with every letter in the alphabet, you could crack this robust and sophisticated security system. How is that sophisticated, how is that robust, if you can crack it with a single letter and you get the entire alphabet to do so?

Ms West: I think what the auditor was referring to with that single-letter example was a point in time in which the system was under development and testing and did not have access to real data. As I indicated earlier, both acting on the auditor's recommendations as well as ensuring, as part of our threat and risk assessment, that we're doing all we can to have proper standards of security, we have, since that reference point, put in place better password controls, both with respect to the nature of the password and the frequency of change of password.

Mr Bryant: I don't want you to give the passwords away now, but could you tell us what—and I understand the ministry's response is they understand there may have been what I would call inappropriate security, and you said that appropriate security measures are being

implemented and possibly the use of crypto—what's the word? Help me here.

Interjection: Cryptography.

Mr Bryant: Cryptography technologies. Is that being implemented?

Mr Zbar: Let me respond to the issue of characters. Currently, for a password to be accepted, it has to be a minimum of eight characters, so in fact you can't use the 26 letters of the alphabet and punch one in at a time. There's a minimum of eight characters. Those characters can be any combination of letters, numbers etc, but it has to be a minimum of eight.

Mr Bryant: Between the time in which it was one letter and now eight, do you know, can you say here that any confidential information in fact was improperly obtained?

Mr Zbar: I will speak for corrections. What I can say is, the day the system went live, it was eight characters. The one was for testing purposes. There were no real data before the go-live date.

Mr Bryant: So you're saying there was no inappropriate access to this confidential information.

Mr Zbar: What I'm saying is that we're not aware of any inappropriate access to the information and we believe that the security measures that are in place would, hopefully, preclude that. Can I guarantee it? No. But we certainly feel that we have enhanced security and we are working to the possible provincial standard of a PKI encryption type of technology. But right now, as I say, we have the eight characters.

Mr Bryant: Just going back to the improvements that have been made to make it robust and highly sophisticated, is the information encrypted now?

Ms West: As Deputy Zbar mentioned, we are looking at PKI, and PKI has been put in place for some of the systems. PKI does enable encryption. So again, as part of the government's review of security around technology, we are working with Management Board and we're responding appropriately with the measures that are recommended for our data.

Mr Bryant: So it's not encrypted yet?

Ms West: Through PKI, effectively it enables encryption. My understanding is that with the key technology, effectively it's not decrypted until you have the key to get entry to it.

Mr Bryant: I just want to understand. Is it in place now or are you looking at putting it into place?

Ms West: The PKI itself is in place in some areas and in other areas it's being considered as part of our review of security needs for those systems.

Mr Bryant: OK. So is there access anywhere where-by somebody could get access to this confidential information that would not be encrypted? It sounds like there are some places in which it's not encrypted. Secondly, is this eight-letter password in place for all the ministries in all access points or just some?

Ms West: With respect to the systems that are implemented, the password that was mentioned earlier is in place and the approach to passwords is in place. With

respect to records management, computer-aided dispatch and the OTIS systems, that's in place. With respect to implementation of PKI, that's something that's being planned for deployment and being reviewed as part of our review of security needs within each of the systems.

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Mr Bryant: Since the auditor's report has come out, in fact, February 27, we hear from people who work within the Ministry of Correctional Services through published reports, according to Cathy Hutchison, the head of the Probation Officers Association of Ontario, that the offender tracking and information system, OTIS, is, in her words, "simply not compatible with our profession." What does she mean?

Mr Zbar: I won't try and speak for Cathy, because when I do that, she doesn't like it. But let me try and explain where we are. OTIS works. We went live on August 10 of last year. On that date, we transferred 60 million records to OTIS. Even the severest critics, including the ones in the article you mentioned, refer to it as a very good offender information and tracking system. On any given day, we track 80,000 offenders in 45 institutions, 124 probation offices, various legal statuses, remand back and forth, court, jail, discharges, admits etc, and the system is working extremely well.

What I think is being referred to is the second part of the system, which is a comprehensive case management system. Some probation officers are saying that it's a very complex system. It is multi-screened and it is a complex system, certainly more complex than the previous system, because it has a number of enhancements. Those enhancements include—and I'll just give you a quick list—digital mug shots that are viewable on screen; offender non-association features, which help both probation officers and those in institutions manage offenders; better access to special management concerns, medical conditions etc; specific support to administrative processes; automatic linkages to victim notification service; electronic access to information that the Ontario Board of Parole needs, and it goes on. So there are a number of enhancements to this system.

Probation officers have expressed concern, as I say, about the complexity of this system. We have listened to those probation officers. Two months ago the assistant deputy minister responsible for the program issued a series of instructions to probation officers which basically allowed them to phase in usage so that they could get familiar with the technology.

As well, we have provided a variety of supports specifically to probation officers, because they are the ones who have the most concern. We have a 24-seven help desk. We have computer-assisted learning that helps them manage the system. We have associate trainers who are probation officers themselves available to help other probation officers do their work. We also have user groups, focus groups, which in fact are meeting this week, made up of probation officers who are working with our systems folks and our program folks to try and find ways of combining some of the screens so that they will be able to use them in a more effective way.

But again, I have to reiterate, this is a system that works. It replaces the offender management system, which was a 1980s system. It was fraying at the edges—that's not a technological term, but it was fraying at the edges. It was breaking down and it was reaching capacity. It couldn't provide mug shots, it couldn't provide association, so we had to put a new system in place and, as I say, it's live and working.

Mr Bryant: Whether it's superior or not, my concern is that right now there are victims who are having confidential information compromised. In that sense, we don't want to have victims not going to the criminal justice system because they're afraid that information they provide is somehow being accessed.

The people who work in probation and parole support are painting a different picture than you have just painted. One of them is quoted in this article, and I'm sure you saw it: "There is no integrity to the system at all," says this person who has worked in there for 10 years. Another person has said that there is a real danger that confidential information is vulnerable to access.

You're saying we have robust security. This person who is working in there is saying there's no integrity to the system at all. What is the public to make of that? Are you saying they're making this up?

Mr Zbar: I wouldn't put words in anybody's mouth. What I'm saying to you is that there is security, as was outlined. The fact is that the security is enhanced over what existed in the previous system.

Mr Bryant: Are you concerned about the statements, though?

Mr Zbar: I'm always concerned when I hear probation officers express concerns about their working conditions. We work with probation officers. I happen to be a probation officer. I started my career in institutions but I then became a probation officer, so I know the work. I understand the complexity of the work and I know it's very challenging work. So when probation officers speak to me, as many of them do, and express their concerns, we take them seriously. That's why we have set up these focus groups of probation officers to work with us to try to deal with their issues around the responsiveness and complexity of the system. They have not, until this quote, raised the security issue with me because, as I say, the system is more secure than what we've had before.

Mr Bryant: I guess my concern is that the public has known and the auditor's report has stated since November of last year that there were security problems. Between then and now, I understand the submission is that improvements were made to passwords so that when it went live, the information was kept confidential. But this article is dated today and presumably the information was gathered fairly recently. It would seem, on the contrary, that instead of improvements being made since November and now, improvements have not been made, because there are still problems. How do you reconcile the case for improvement that you're making and the security breaches that are being alleged in this published report?

Mr Zbar: Again, I'm not aware of any security breaches. No specific security breach has been brought forward by anybody.

Mr Bryant: But you said in the very beginning that there was really no way to determine that.

Mr Zbar: No. You asked a question and I gave a hypothetical answer. I'm suggesting to you that we have not had any complaints, by members of the public or probation officers or folks in our institutions, related to security breaches of the system, not one.

Mr Bryant: Presumably, that's because the victim of that confidentiality breach hasn't become aware of it yet, but that doesn't mean it has not happened. We just don't know the answer to that.

Mr Zbar: I can only respond to things I'm aware of. As I say, I'm not aware and no security breaches have been brought to the ministry's attention by, and I will stress, anybody.

Mr Bryant: Except for the probation officers who were quoted in the Star today. They brought them to your attention.

Mr Zbar: Yes, they brought them to our collective attention.

Mr Bryant: I just want to understand what you are doing to respond to these concerns. We have to assume that they're not making them up.

Mr Zbar: Again, as I think my colleague mentioned, we feel that we are listening to what the auditor recommended. We are looking at the enhancements in terms of the PKI technology. We feel that the current password to protect the system is better than it used to be and we will continue to look for improvements.

The Chair: Last question, Mr Bryant.

Mr Bryant: OK. We want these people to bring forward these concerns, and I know you prefer that they bring them directly to you instead of having to read them in the Star, but I see from this article that people have been suspended who work within your ministry and have received sanctions, according to this article, because they made a complaint to the system. The public needs to know that you're working with these people. But if they're being suspended for complaining, then how is it that you're working with these people to make it a safer system?

Mr Zbar: Again I will say to you categorically that no one has been suspended for complaining. We have a collective agreement. We're in a collective bargaining environment. We follow the collective agreement. If there are breaches, in terms of behaviour, of the collective agreement, we take disciplinary action. When that disciplinary action is taken, of course, the individuals involved have due process. The fact is that nobody has been suspended for complaining. Ms Hutchison, for example, is continuously vocal about probation, and in many ways that's very welcome. We meet on a regular basis. We involve the POAO in our deliberations. When we have user groups we involve them. We meet with our OPSEU reps as well. So I think the characterization is not accurate.

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The Chair: We'll go to Ms Martel now.

Ms Shelley Martel (Nickel Belt): Thank you, Deputies, for being here this morning. Let me say at the outset that I had hoped—in fact, I had anticipated—that you'd be here today to give us the details of a renegotiated contract, because I gather this has gone on for over a year. I must tell you I am surprised that this has not been completed yet in terms of renegotiation.

I also want to say that even though that is not the case, the auditor raised a number of concerns with respect to particular details of the contract, and I would appreciate having a sense of the steps or direction you're taking through the negotiations to deal with some of those concerns. I want to go through the items of the original contract to get a sense of where you're heading.

First of all, the original contract had a cap of \$220 million on payments to EDS. Will there be a cap in the renegotiated agreement, and what will the level of that be?

Mr Freiman: Perhaps I can start the responses on the issue of negotiations. You'll appreciate that it's not prudent for us to talk about details of the negotiations in public, or to talk about what the government's bottom line is or what its opening position is. Those probably are not prudent sorts of details to get into.

The negotiations haven't really taken over a year. We were contemplating renegotiation. The formal negotiations didn't start until the summer. The negotiations have been long because they've been principled and because there are important positions that each side feels need to be protected.

The issue of a cap was noted by the auditor. Positive comment was made with regard to the cap as being a useful check on uncontrolled costs. I think it is prudent to say that the negotiating team has taken note of those comments. They conform to the ministry's own sense of what is appropriate and what protects the government's position. Our negotiations are proceeding from an understanding that a cap is a good thing, that it controls spending, controls costs and provides protection.

Ms Martel: A couple of things: I think it was the auditor who noted in his report that when he was completing this audit in March, negotiations were underway. That's why I thought it's been over a year.

Second, I really do think it's incumbent on you to give us a bit more of the details of where you're heading, given that this issue is of a particular concern to us. The only difference between this and Andersen is that you were smart enough not to pay these folks before the benefits were realized, which COMSOC didn't do in the case of Andersen. So that deal is worse because of that, but there are elements in this where the concerns are very much the same. The cap is one. In the case of Andersen, COMSOC couldn't justify the cap. What are you using to justify what a cap might be? I gather you are heading there because you realize the benefit of that.

Mr Freiman: I'm not sure I understand the purport of the question in terms of a cap being a cause for concern.

What the auditor noted, and the ministries take it very much to heart, is that a cap is good thing in that it structures the business case in a way that leads to certainty as to the total possible recovery by the private sector partner. So the cap is a tool by which we set the outer parameters of the most that could be recovered by the consortium.

We continue to see benefits in using a cap to ensure that we know the maximum that the consortium could recover. Again, it's important, as my colleague underlined in her presentation, to note that's the maximum the consortium could potentially recover; it's not an amount they have any right to. So it is a protection for the taxpayer and a protection for the government. We continue to see that as a very important aspect.

Ms Martel: The problem is that the cap is not the maximum a company can receive, because built in to the original agreement you also had \$51 million in incentives, which was over and above the cap. Granted, that wouldn't have been paid out, because EDS didn't meet some of the financial conditions. So in your renegotiation are you building in financial incentives again over and above the cap, which was the case with the original agreement?

Mr Freiman: Again, I don't think it's prudent to talk about details. I can tell you that we're very cognizant of the need to protect the taxpayer and the need to ensure that the reward promised to the consortium is commensurate with the risk. To the extent that risk is reduced, the reward will be reduced. It is a sliding scale. The greater the risk, the more justification there is to provide a potential for, though never a guarantee of, return. The more the risk is reduced, the less there is any sort of justification for large rewards to the consortium. Negotiations consist of finding the proper balance, of pegging the risk properly, pegging the rewards properly and providing assurances that we're not flowing money without requiring something in return from the consortium.

If I may, that does really tie in entirely with the point you made, which is an accurate point, that a big difference between this project and other projects that may have been criticized is that there is no payment to the consortium in recognition of benefits until the benefits are actually recognized and realized by the government. You're right to say that's the big difference. But I would say, yes, that is the big difference, because it prevents payment for no purpose. It prevents payment for a promise, and it requires performance in order to justify payment. Again, that's a very important principle, and it's a principle the government's negotiators have firmly in mind as they enter into discussions with the consortium.

Mr Peter Kormos (Niagara Centre): I appreciated your comment about being "cognizant of the need to protect the taxpayer." I trust that was the rationale for the two financial conditions that were expressed in the original contract; that is, a benefit-to-investment ratio exceeding 1.1 to 1 and that the consortium investment must not exceed \$200 million.

Mr Freiman: Yes.

Mr Kormos: But I similarly understand from the auditor that neither of those financial conditions had been met.

Mr Freiman: I think the 1.1 to 1 is really the issue we're getting at. The 1.1 to 1 is a measure of the return on investment. It says they're entitled to a 10% profit. If the business case looks as though it's not going to provide that measure of profit, either side can walk and can say, "We've had enough now." Walking isn't a simple matter, because there's a very complex series of steps to disengage and to ensure that work already underway is completed and to deal with work that isn't underway. But the project could be terminated if the return on investment is less than 1.1 to 1. In my view, that's the counterbalance to the government's protection in terms of a cap. The consortium has the protection that it doesn't have to continue to invest if it's not getting money back. The consortium could pull the plug. It decided not to pull the plug because, like the government, it sees that if there is a possibility of coming to a mutually agreeable solution that respects each side's needs, that's preferable to walking away.

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Mr Kormos: But were those two conditions valid when they were established and included in the initial agreement?

Mr Freiman: They were prudent ways to protect the respective interests of government and the consortium.

Mr Kormos: And from our point of view, to protect the interests of the taxpayer.

Mr Freiman: Absolutely.

Mr Kormos: And neither of those conditions has been met to date.

Mr Freiman: No. Those were signals. The cap is not a condition that hasn't been met.

Mr Kormos: The benefit-to-investment ratio must exceed 1.1 to 1, and the consortium investment must not exceed \$200 million. Those are the two financial conditions that permitted either party to exit from the agreement unilaterally.

Mr Freiman: Yes.

Mr Kormos: They were there, from the government's point of view, to protect the interests of the taxpayers, and neither of those conditions has been met.

Mr Freiman: They were designed to provide a mechanism to pull out if it was in the taxpayers' interest to pull out, and similarly for the consortium. One would expect that if in the course of negotiations—they are the alarm bells that cause one side to ask the other to do something, either pull out or, "Let's talk about whether we can find a way of restoring the balance," the fact that those signals have gone off, the prospect that the consortium might have to invest more. Remember, what the cap means is that the consortium can't be called on to invest more than that, because we're not going to pay them more than a 10% profit on that.

Mr Kormos: But by March 31, 2000, the \$200-million maximum investment had already been exceeded by \$112 million.

Mr Freiman: That's a projection of what would have to happen in order to complete the project. The actual investment has been a good deal less than that. We're looking at some \$120-odd million unsecured investment.

Mr Kormos: Is the estimate of benefits similarly inaccurate, so that the benefit-to-investment ratio becomes even more off-target?

Mr Freiman: No. What I'm saying is that up to this point we know how much has been invested. If you look at what is left to be done and you project the probable cost over the period of what is left to be done, it's going to go much higher. So there has to be something done in order to ensure that taxpayers are protected.

Mr Kormos: My understanding is that in BC—and I'm sure I'll be corrected very rapidly if I'm wrong—the plug was simply pulled on a mega-project like this, and then it proceeded in smaller projects that were more regional or more specific. Has that been a consideration on the part of the government in view of the history in British Columbia with a similar experience?

Mr Freiman: The experience in British Columbia was not really similar. If you talk about a plug being pulled, it was pulled at a point so early in the process that it was barely out of the starting gate. Our process is a good deal further down the line.

At the end of the day, if renegotiations don't produce an agreement that protects the interests of Ontario taxpayers, the government will not agree to such a renegotiation. Similarly, if the consortium doesn't believe its interests are capable of being protected, I'm sure it wouldn't agree to the renegotiation and alternatives would have to be considered. That is what's meant by negotiations.

Mr Kormos: You've read what the auditor said about the original business case as it went to Management Board and his identification of that original business case as a best-case scenario only. Do you agree with that, or is the auditor wrong?

Mr Freiman: I would never say the auditor was wrong.

Mr Kormos: Neither have I.

Mr Freiman: Knowing what we know now, the original business case was optimistic and benefited from assumptions that were rather aggressive, seeing the way things unrolled. I can't know what was in the minds of the people who originally considered the business case, whether in their view this was on the optimistic side or, given what they knew then, this was in the middle of the road. Given what we know now, it was definitely aggressive and definitely optimistic.

Mr Kormos: Wouldn't it have been prudent for Management Board or anybody reviewing that proposal to have asked not only for the best-case scenario that was proposed and put forward but also for the downside and the worst-case scenario? I know deputy ministers spend a whole lot of time preparing that sort of briefing material, don't they?

Ms West: Maybe I can respond to this and pick up on some of the comments that Deputy Freiman started with.

We recognized at the beginning that this was stated as a vision, and so it was very broadly stated. Assumptions were made with information known at that point in time as to how one could implement that vision. In retrospect—and I think we've said it before—we could look at this and deal with this in a different way should we restart, should there be a project that would be addressed in a similar way.

What we perhaps should be looking at is a range of costs and benefits. So rather than fixing on a particular dollar amount, there would be a range of costs and benefits that would acknowledge that there is a level of uncertainty here and that there is a best-case scenario and a less-than-best-case scenario.

I think the other thing that we, as we went through—

Mr Kormos: So, if I may, it wasn't particularly prudent, then, of Management Board to approve this without that range in costs, was it?

Ms West: I think what has happened since that initial request for approval is that the business case has evolved and has benefited from real information, more detailed information that has come from our business areas, as well as the realization as to what technology is out there. As we said earlier, we made the assumption that there was technology out there that we'd be able to take off the shelf and provide some modifications to. We discovered, because of the uniqueness and innovation of this particular project, that we needed to deal with it in a way that required more development work on the technology and more information as to the business requirements as we moved forward.

Ms Martel: Deputy, if I might, the auditor also said, "We noted that specific details on cost savings and new revenues were maintained by the project management office but not included in the business case. In our view, the Management Board of Cabinet should have been provided with more detailed information on project benefits in the business case in order for it to be as informed as possible in making its decision to approve the project." Why would those important details have been withheld, over and above the fact that the business case was aggressive and a best-case scenario?

Mr Freiman: I said before that the auditor is never wrong. The auditor of course is never wrong. The material the auditor was referring to and that was before the auditor didn't contain the entirety of the business case. That's not to say, however, that that summary sheet, which is what it was, was the only material that was available to Management Board Secretariat or that anything was withheld. In fact, there was extensive material provided to Management Board Secretariat and, as is the usual case, it would be analyzed and processed by Management Board analysts, who then would prepare a summary from that. I think the auditor was referring to a summary sheet that did not include the entirety of the information that would have been available to Management Board Secretariat by other means. So I don't think it's necessarily fair to say that anything was withheld from Management Board Secretariat. They were apprised

of as many details and they had available to them whatever details they required.

Ms Martel: I'll let the auditor respond to that later on.

Let me go back to the details of the renegotiation. Two financial conditions haven't been met. Is it your intention to have financial conditions in the renegotiated deal?

Mr Freiman: Clearly, the way the deal is now structured gives these what I've called warning bells and exit ramps. I don't think it's inappropriate to say that all the renegotiation discussions have involved warning bells and exit ramps. We would anticipate that there would be similar signals and similar opportunities for people to reassess their position.

Ms Martel: Mr Kormos wants to know if they will be ignored in the same way as they were the first time or will you deal with them in terms of termination?

Mr Freiman: In fairness, termination may not be the most advantageous result, either for the government or for the consortium and ultimately for the taxpayers and residents of Ontario. If termination becomes the most logical and beneficial concept or result for the taxpayer in Ontario, we won't hesitate one minute to terminate. The reason we have not terminated is not because we're ignoring anything; it's because we believe that the benefits, both qualitative and quantitative, of the integrated justice project are such that they deserve an opportunity to be realized, and if we can realize them in a way that protects the interests of Ontario taxpayers, it is worth our attempting to do that through renegotiations. That's all the renegotiations mean.

The Chair: Your last question, Ms Martel.

Ms Martel: The original agreement provided a 7% markup on purchases for EDS. Will that continue in the new agreement?

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Mr Freiman: The auditor has brought to our attention a number of issues where there are opportunities for the consortium to be credited with amounts in excess of retail rates, such as vendor-of-record rates. We're very cognizant of the need to be reasonable in the kinds of payments that are made. Again, it's a question of balancing risk and reward. Some risk premium is justified where the partner really assumes a risk. To the extent that the partner is really assuming a risk, we have to be prepared to look at and consider the reasonableness of some sort of a premium, all with the auditor's suggestions and observations in mind. If there is no risk being undertaken, there is no justification for any risk premium. So our attitude in the negotiations is to take a prudent approach and to ensure that we are not paying something for nothing, as I suggested to Mr Kormos. We haven't eliminated the possibility of a risk premium, but we are not committed to paying anything by way of a risk premium.

The Chair: We'll have to leave it at that for now. Mr Peters wanted to make a comment before I turn it over.

Mr Erik Peters: If I may, we did have access to the intangibles that were in the Management Board submission, and we did try to summarize those on page 67 of

our report, namely the three key ones being: increase public and police safety; make the justice system more accessible and responsive; and reduce or eliminate inefficiencies and delays in the system. If we had not received the information, unfortunately I would have had to report under section 12 of the Audit Act. So we did receive all the information. There was no withholding at the time.

Mr Bart Maves (Niagara Falls): Let me just follow up on that. The auditor has said that the only scenario that was put forward was a best-case scenario, and you've just said there were other components that were given to Management Board Secretariat. Would it not be normal in these circumstances, before you went forward to get approval of a project like this, that you would come up with a best-case and a worst-case scenario; different scenarios about how the whole thing might play out?

Ms West: Again, in the early stages of the project, and recognizing that it was stated as a broad vision in terms of improving efficiencies and transfer of information within the justice system, there was a limited amount of information or awareness both on the business requirements and on the technology that would be required to meet those needs. So in that respect, I think the way it was stated was that the first instance was stated optimistically but with a recognition that that business case as first designed would have greater detail and would evolve as more information became available.

I think we have, as we continued through the business cases, taken advantage of the additional information, both in terms of identifying the new costs or different costs that may arise as a result of discovering that technology had to be developed from the basics as opposed to buying it off the shelf. As we realized on the benefits side and on implementation what was possible and what benefits were possible to be realized, that business case sequentially got refined and became more and more real as we got into implementation.

As I mentioned earlier, though, I think even at that early stage one of the lessons we've taken from this is that we should be looking at a range. Rather than stating a particular projected cost, a particular projected benefit, we should have looked at it as a range of costs and benefits, with some assumptions more clearly stated, perhaps, as to what that range of costs and benefits was relying upon. So we've learned from that. I think the changes to our assumptions over these past couple of years, of course, have moved the business case along and made it more and more real for the implementation, but perhaps we could have anticipated some of that earlier.

Mr Maves: This committee has heard before, actually, that something like 70% of technology projects of this magnitude don't come to full fruition. That's an industry number that's well known. In fairness to you, I don't think there's an IT project that I've heard of in the past 10 years that has not had a cost overrun or a time delay.

Mr Kormos: Including public partnership ones.

Mr Maves: Any one at all, anywhere in the world that I've ever heard of that that hasn't happened with.

That leads me to say, and this will just sit as a statement, that I think greater due diligence needed to be done, and still needs to be done, on IT projects that go forward, knowing the background of all IT projects: they never meet deadlines; they never meet financial limits. I think you should have had more due diligence. You should have had best-case, worst-case and probable-case scenarios clearly laid out before going forward with the program. I just want to leave that out there.

I do want to say, though, that my understanding from the auditor's report is that you have submitted to him original and revised timetables for releases of new systems. The police and corrections parts of this system integration were to be released and in place by December 2001. What is the status? Can you give me the status of each of the seven parts of the project?

Mr Zbar: Why don't I start with corrections?

Mr Maves: OK.

Mr Zbar: As was pointed out earlier, OTIS, which is the corrections system, the offender tracking and information system, went live province-wide on August 10. We decided to delay it until August 10 because we wanted to make sure that folks were adequately trained and that the technology worked. But the system is live. It is the only system in use in corrections. As I mentioned earlier, it contains 60 million records, tracks 80,000 offenders a day at 124 offices, 45 institutions. So the system is live and, as pointed out to Mr Bryant earlier, we are working with probation officers and others to try to make the system as user-friendly as possible in terms of the case management component. I don't think anybody questions the offender tracking and information side of it.

As I say, we're working on the other parts of the system that make it far more robust than anything that any jurisdiction in this country has from a correctional point of view. So we're up and running.

Ms West: I would like to get back to you on the police systems. Despite the fact that you referenced this as a statement with respect to due diligence, I just want to respond briefly to that. We do acknowledge, with projects of any scope but certainly the scope and scale of this project, that we have to have appropriate due diligence for it. We believe we've made significant improvements in due diligence, not just since the auditor's report, but certainly picking up on some of his recommendations, but even prior to that. We have improved our financial management systems. We have a project management system in place.

On the governance side, the three deputies meet on a weekly basis, if not more frequently than that, to deal with our issues on IJ. We have an assistant deputy minister steering committee, we have project steering committees to keep their hands on the progress of the individual projects to ensure that issues are addressed as early as possible.

We did retain a third party adviser to do a risk assessment for us. We've taken into account the advice

that he has given to us and we've responded to that. We also have our internal auditors in place right now to help us review the financial management systems to make sure that we are putting in place the best system that we can for the needs of this project.

I just wanted to assure you. We mentioned lessons learned early on, but even now, as the project continues, we're trying to undertake the best due diligence to make sure that the interests of the government are properly protected.

With respect to the police project, it's the computer-aided dispatch and the records management system with the OPP. First of all, those two systems have been implemented in all 11 communications centres of the OPP, and the records management system is being used throughout the OPP at the present time. We also have what we call an OPTIC municipal police network in which 39 police services used that same system. That system of CAD and RMS has been rolled out to five of those municipal services: St Thomas, Barrie, Orangeville, Shelburne and Owen Sound. We are now dealing with, as a result of that rollout, as is typical for a large system, some identified performance issues that we've been addressing. We've now addressed them, found the solution and will continue the rollout to the other 39 police services. As a result of that it has provided a significant improvement in capability by the users of that system in recording information and having, for example for dispatch services, more immediate information about the location for police or fire service and ambulances—we do the dispatching as well in some areas—so that they have better information as they go out to a site, and having good linkage and efficiencies between the CAD and RMS.

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Mr Maves: Can you hold it there? So corrections' part of it is 100% complete?

Mr Zbar: The corrections' part is the use across the province. There are different phases which will come but, yes, it's complete, it's working and it's in every location.

Mr Maves: OK. The police component: the CAD and the RMS are 100% complete in the OPP?

Ms West: That's right.

Mr Maves: It's in five out of 40 municipal forces; is that right?

Ms West: It's in five out of 39. These are the smaller municipal police services, so these are the ones that share this particular system. It doesn't affect the large police services like Toronto or York region. They have their own systems. This wasn't intended to involve them.

Mr Maves: How many more will continue to—

Ms West: There are 34 left of the 39 small police services, so that rollout continues now to all of them.

Mr Maves: And when will it be completed?

Ms West: We're hopeful that will be completed certainly by the end of this year, but ideally before the fall.

Mr Maves: OK. Can you keep going with the crown attorney's part of the projects and the court's part?

Mr Freiman: I'm glad to do that. The Ministry of the Attorney General's portion of the project is the court's portion. It's the one that has been most directly affected by the inability to deliver an out-of-the-package case management product that would function as the backbone of the system. The first thing we did, as my colleague said, was to embark on a new strategy to disaggregate the projects and reconfigure them on a stand-alone basis, and then to have them integrated once we have the case management system in place. That's what we've done so far in terms of the court projects.

On the crown's, there is in place now a field project in London involving police and crowns where they are in fact testing the system. My understanding is that it is proceeding very well. Our belief is that the system will be demonstrated to be capable of exchanging information directly from the police to crowns by electronic means, thereby eliminating the need for paperwork. That will be ready for implementation province-wide as soon as all the police forces are on board and ready.

On the e-filing project, again, the first thing we did was to reconfigure our requirements for a stand-alone basis. This past fall we had one field test in Hamilton in one court environment, the superior court environment. We had, later in the winter, a second test in Toronto for the Small Claims Court and then a third test in Cochrane for a more remote region just this past month. The field tests are now ending completion. We've gathered the necessary data on where any gaps or deficiencies might lie and what improvements are needed. That's going into release too, which I'm expecting shortly, and we are planning the implementation within this calendar year of e-filing in the courts of Ontario.

On digital audio recording, again, has proved to be one of the more difficult reconfiguring processes because the original process very much integrated case management with digital audio recording. What we were moving toward is an electronic record for the courts, an electronic record of everything done in the courts, and that really comes to a head in transcripts becoming electronic documents.

We have successfully reconfigured the project in terms of our needs. We've completed our discussions with our suppliers. They know what the needs are. We have a demonstration project that involves the bar and the judiciary to demonstrate the capabilities and to get feedback on any needs, especially from the judiciary, which members of the committee will appreciate is independent and has its own views as to what needs to go on in a courtroom. Those discussions have been remarkably positive. We are anticipating approval of the necessary regulations shortly that will allow us to go live. We're planning a series of field tests in a live environment, probably over the summer so as to disrupt the courts as little as possible, and we are hoping that we have successful field tests on implementation within the next fiscal year.

Mr Maves: So all the systems that were going to be built are now built and every—

Mr Freiman: Or are capable of being implemented. I wouldn't want to overstate it. Digital audio recording has not been put into courtrooms throughout the province.

Mr Maves: OK. Let me not say "built"; I'll say "designed."

Mr Freiman: Yes, other than court case management.

Mr Maves: OK. What hasn't been implemented in police and corrections—corrections is implemented; police is well on its way to being fully implemented. What hasn't been implemented is being field tested, except for—

Mr Freiman: Court case management.

Mr Maves: —court case management. Can you tell me, and I know it will be a rough percentage, what percentage of the project is complete and what percentage of the project is being field tested?

Ms West: Again, it depends upon what your denominator and numerator are. But certainly as you've just described, all of the projects, save for court case management—and that is a large piece, but two of the projects are virtually implemented and the other—the three components that Mark mentioned are well on their way and are into pilot testing, and there's one left to be determined.

Mr Maves: So your timelines that you submitted to the Provincial Auditor, which he has in his report on page 76, indicate completion and implementation in June 2003 for the crown attorneys' part of the project and September 2003 for the courts. Some of that is going to happen prior to that, obviously, but are you still confident of those timelines?

Ms West: The auditor's report was done—I'm just trying to find the page with the reference—at a point in time for some of the systems, and court case management is the larger one, in which there was still a pending rollout. So these referenced timelines are not timelines that we would currently commit to.

As part of the negotiations, the review of the business case is the foundation for that. We have reviewed the business case for the implementation plan moving forward with our consortium partner, and so there will be adjustments, because of issues on some of the projects, to the timeline for the implementation and then for the benefits to be realized. So there are adjustments from this particular picture that you have here. There are adjustments that have been realized since this information was presented.

The Chair: Last question, Mr Maves.

Mr Maves: I have several more, so I'll just hold them until we come back. How's that?

The Chair: OK. Could we leave it at that, then? We'll recess until 1 o'clock. Thank you very much.

The committee recessed from 1200 to 1302.

The Chair: Thank you for re-attending this afternoon. We'll start the next round of questioning with the official opposition.

Mr Bruce Crozier (Essex): Good afternoon. A project of this size, as we've known up to now and learned more about this morning, is significant. It's my

understanding that within your ministries you each have what I'll refer to as, and I think most are known by this name, an integrated justice project, and there are staff in your ministries that are involved in this. Is that correct?

Ms West: Let me respond first and then I'll let my colleagues add to that. Within each ministry in the business area that's involved in one of the projects there are staff involved from the business side. For example, within the Ministry of the Solicitor General or within the OPP there are staff who are involved in the business areas in dealing with computer-aided dispatch and the records management system, identifying their requirements and ensuring that there's the technology response to that.

In addition to within the business areas there's a project management office. The project management office is composed of staff from the ministries as well as staff from the consortium. Through the project management office and its lead within each of the projects there are staff involved in the development and implementation of the technology from both the consortium—EDS is the lead partner within the consortium—as well as from the ministry or from the government.

Mr Crozier: For example, when I go to the telephone directory for the ministries, each seems to have an integrated justice project committee. Further to that, it's my understanding that that group—through a similar project group on the Management Board of Cabinet, that's how the information would flow through to cabinet itself for decisions. Is that correct?

Ms West: I'll ask my colleagues to add to this. I don't think that within the Ministry of the Solicitor General, for example, there is an integrated justice information technology division that on behalf of the three ministries provides technology support to the three ministries. The integrated justice project probably in the telephone directory is shown as being under the Ministry of the Solicitor General because we have the budget that provides for them. I don't know that Management Board has, on the other side, any organizational unit called "integrated justice project."

Mr Crozier: They have one called "integrated network project."

Ms West: OK. So that's within the corporate CIO's organizational structure. I think the integrated network project is something different from the integrated justice project. It deals with larger network concerns of the government and is the responsibility of Management Board Secretariat.

Mr Crozier: So your three ministries don't have to interact with Management Board, then?

Ms West: Yes, we do, obviously. Certainly with respect to the basis, the foundation for our systems does rest upon the network itself. So the Management Board has a responsibility on that side. We then, in terms of our particular applications, would have staff with the consortium for the implementation.

Mr Crozier: The heads of each of these integrated justice project groups, what status do they have? Are they

directors; are they managers; are they assistant deputy ministers? What status do they have?

Ms West: Let me just speak to what's within this ministry and then I'll let the others speak.

The integrated justice project is led by an executive lead, and we're just in a transition with respect to the executive lead. But that would be an assistant deputy minister level that reports to all three deputies. On administrative matters it would report to me, because it's within my organizational structure, but otherwise it would report to all three deputies.

Mr Freiman: Speaking for the Ministry of the Attorney General, our project lead is a senior manager who'd be at the director's level. She coordinates with a steering committee that includes the assistant deputy ministers who are responsible for the business lines that are affected. The assistant Deputy Attorney General for court services, for business planning and for criminal law division would all participate in the steering committee to ensure that user needs are always understood and are always translated into the requirements for the project.

Mr Zbar: Again, in corrections it's a very similar situation. Our executive lead is at the director's level and he sits on the steering committee made up of the program areas of the ministry.

Mr Crozier: At a point in time when I was looking into this subject, I went to a Web site that named an assistant deputy minister "integrated justice." Would that be this project?

Ms West: Yes, that probably would be this project. Certainly the position or the title I was referencing is within my minister.

Mr Crozier: At the assistant deputy minister level.

Ms West: That's right. Yes.

Mr Crozier: My interest at that time was with a certain supplier called MFP Financial. Are you familiar with them?

Ms West: Yes.

Mr Crozier: And there was at that time a Michael Jordan, who was the assistant deputy minister, integrated justice. Which ministry was he with?

Ms West: That would have been with the Solicitor General, again as I described, on behalf of the three ministries.

Mr Crozier: I take it that Mr Jordan is no longer the assistant deputy minister, integrated justice, but someone else is.

Ms West: Mr Jordan left that position and went over to a position in Management Board about two years ago, and has since left the government to go to the private sector.

Mr Crozier: This information I had may be a bit out of date, because it was just last fall, I guess in September.

Ms West: At that time he certainly wasn't with the integrated justice project.

Mr Crozier: This may have been a bit out of date.

Now, on the other side, on the private sector side, I understand that EDS is kind of the lead and that it was

originally perhaps SHL Systemhouse, but one took the other under its arm.

Also, and I'd just like some confirmation, there was an article in which KPMG Canada, Teranet Land Information Services and a DMR Consulting group are part of the private sector consortium.

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Ms West: KPMG was originally, but for a short period of time, and then left it. But DMR and Teranet are part of the consortium, with EDS as the lead partner.

Mr Crozier: What I'm leading to, and you're confirming, is that you have an interest in who makes up the consortium that you're working with on this particular project.

Ms West: Certainly. At the time the consortium was chosen as our partner, obviously who made up the consortium was very important to us because we wanted the skills, the experience and the expertise that they brought to come to the project, that we wouldn't have had within government.

Mr Crozier: I mentioned MFP Financial Services, and there was an MFP technology. Are you familiar with that group? Is that part of the consortium that you've worked with?

Ms West: No, MFP is not part of the consortium, but MFP is a vendor that was chosen after a competitive tendering process to provide the leasing of the computer hardware, software and related equipment.

Mr Crozier: So they are involved in this—

Ms West: As a vendor, yes.

Mr Crozier: Yes. You will be well aware that in the fall I had questioned the minister—I went to the Chair of Management Board but I think it was referred to the Solicitor General—with regard to this MFP Financial and MFP technology, mainly because there was quite a bit of concern with this vendor when it came to the city of Waterloo, the city of Windsor, the county of Essex, Brock University and the city of Toronto. I asked the minister at that time to confirm for me that with any contracts we had with MFP, Financial or technology, we hadn't encountered some of those problems that were being brought forward by these municipalities.

Ms West: In response, I certainly can't comment on the problems or issues that any municipality or any other organization may have had with MFP leasing, but there have been audits that have looked at our tendering process and the selection of MFP, both internally and the Provincial Auditor has done an audit on government technology leasing, and they're used as a leasing—financing for the purchase of various hardware-software-equipment.

We also recently, late last year, conducted an independent review of the leases that we have, by an independent consulting firm called ON&Y Services, to confirm—what we thought was the case, but to confirm it externally—that our existing leases were reasonable. The justice cluster has received the benefit by way of MFP leasing for the hardware-software and services financing for the various applications that we've described earlier today.

Mr Crozier: Would you be able to provide those audits for the committee?

Ms West: I'd have to look to see if those audits were appropriate to provide to you. Obviously, the Provincial Auditor's audit is available.

Mr Crozier: I might just ask the auditor: have you audited them? She just commented that obviously you've had the opportunity to look at it.

Mr Peters: We have, as you know, a no-name policy, but we have, in various audits, commented on the computer leasing arrangements that were in place in a number of ministries. Offhand, I don't recall whether there was one on your ministry, Ms West. Also, I'm not aware of the ON&Y activity, which is internal to the ministry.

Mr Crozier: Would you at least, then, undertake to see if, as you say, it's appropriate for you to provide those?

Ms West: Sure, yes.

Mr Crozier: I'd appreciate it very much because—and I want to be clear on this—I think it was said this morning that EDS—and I'll use these words, and please correct me—shifted leasing costs to the end and that they will come into the contract. I may not have jotted that down correctly. Is there something that will develop later with respect to these leasing costs?

Ms West: No. The leasing costs, of course, are part of the consideration within the business case. They're being identified, where appropriate, where it's an investment to the investment-benefit ratio. They're part of our consideration business case as part of our current costs and will continue to be costs associated with the project going forward.

Mr Crozier: OK. What I may have to do—and as I said, I apologize if I just didn't have the wording correct—is look at Hansard later to see what that comment was that struck me, and perhaps I can write to one of the ministries about it.

Mr Freiman: If it's of any assistance—this may not clarify, but perhaps it helps a little bit. As we've been discussing this morning, one of the features of this arrangement is to protect the taxpayer. One of the ways this project does it is to align costs with benefits. The idea of the project is that the financial benefits of the project are diverted at first instance to defray the costs of the project. What you may be referring to is the manoeuvring room within the project to ensure that costs arise at a point where there are benefits sufficient to pay for them.

What we want to do is ensure that there is no actual outlay of taxpayers' money, and the private partner, similarly, would like to ensure that payments are made out of benefits. That also controls the actual amount of investment. So that may have been a reference to the timing.

Mr Crozier: I appreciate and share that concern. Part of what I want to be sure of, with this significant increase in costs that has been estimated beyond this point, is that these leasing costs are part of that—that everything has

been considered—but are not a major cause of that increase.

I'm also interested in the fact that—it has been mentioned a couple of times that under this agreement, it seems that either party can just simply say, "I've had enough," and walk away from it. But I don't know, if there have been contracts with subcontractors and agreements in place, that it would be that easy to walk away from. If so, who would be responsible for them?

Ms West: The costs you refer to are paying for the current systems in place. So the systems in corrections and Sol Gen and that are being piloted within the Ministry of the Attorney General—the costs associated with that for the acquisition of hardware, software and equipment will continue because they continue to pay the cost of ongoing systems. There will still be an obligation to pay those costs. Within the contract, as we've described, there's a sharing of the risk and the reward for the payment of those. As we've also described, eventually, at the end of the contract, when the consortium is no longer with us, the government of course will continue with any ongoing costs, but the project then does provide the benefits from the project to help offset those ongoing costs.

Mr Crozier: OK. Thank you. I'll defer to my colleague.

Mr Bryant: You were speaking about, I guess, the cost-benefit advantages of the project, but surely the administration of justice cannot be compromised in the name of financial incentives. You also spoke of digital audio recording and where we're at in terms of its completion. I have to say—and I don't know how much time I have left, so I think I'll just make my submission a little longer and then let you respond. The Premier, Mike Harris, then in opposition, wrote a letter—you're probably aware of it—on December 16, 1993, in which he says of this replacement of court reporters with digital audio technology, "All too often valuable government employees are being displaced for the sake of short-term savings which might not necessarily make sense over the long term."

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The then Attorney General critic, Charles Harnick, raised the matter in the Legislature and said, "Besides the cost-benefit problems, there is the issue of, potentially, cases being thrown out because of problems with the transcript." Of course, that has happened. It happened in the Hannemann case of April of last year, where Mr Justice Casey Hill describes the case, not of a missing piece of a transcript, but of there being no official transcript, of there being, in his words, "an incompetent monitor, the failure of any quality control system to produce an accurate transcript."

In response to that, one of the interveners in the case said, "Well, yes, there are problems but this is just a dollars-and-cents issue." Isn't the administration of justice being compromised by the cost-saving that comes with the digital audio system?

Mr Freiman: I'm truly glad that we've raised this issue, because it's very important to stake out the ground.

In the Ministry of the Attorney General our mandate is to ensure the integrity of the justice system, the continued rule of law and respect for the principles of the constitution and of our legal system. We would not, under any circumstances, tolerate an initiative whose goal it was to save money if the result were to compromise the justice system in any way.

Mr Bryant: But that happened in Hannemann.

Mr Freiman: First of all, Hannemann, I'd note, had nothing to do with digital audio technology or any audio technology. It had to do with what Mr Justice Casey Hill perceived as a failure of quality control with regard to court monitors and court reporters. He made his comments. Again, a judge is never wrong either, so I don't take issue with his findings of fact in a particular case. The observation is correct that the integrity of the transcript is of such importance that we have to ensure that, whatever means we use to keep a record, whether it's a stenographer using a stenographer's mask or using some tape recorder, a court monitor or digital audio technology, there is quality control, there is backup, there is redundancy and there is a method of retrieving the original if a problem arises.

The project on digital audio recording is premised not on any issue of cost-savings—although there may be some significant benefits in that line—but from a vision of transforming the justice system from a paper-based system to an electronic system. There is an independent value in having an electronic record and in making the official medium of the court a digital record. There is tremendous benefit, both in terms of the integration of the entire system and in terms of the accuracy of the transcript if good digital technology is used.

But we're not simply bullying ahead. The reason we're proceeding at a measured pace—and some people think at too slow a pace; I've seen a number of articles that take us to task for the length of time it's taking to introduce this—is because we want to be sure that the primary users of the system, and that's first and foremost the judges but also the bar, are involved, understand and are satisfied with the quality. We've had tremendous participation. I can tell you that overall—you can never get 100% satisfaction—the judiciary is on board.

I don't want to reduce this to a personal matter or to anecdotal matters, but I was standing in line at a local bakery waiting to buy a dozen bagels and was unable to complete my purchase because a distinguished Superior Court judge wanted to take me aside and discuss digital audio recording, how important it was to get it going and to get it going quickly because the judiciary needs it.

So they're on board, mostly. The bar is definitely on board. We have the privilege of having one of the members of our liaison committee, Mr Derek Freeman, sitting here today because he is so interested in this and because there are representatives of the bar who are interested. They are stern taskmasters. They ensure that we have the highest goals and standards around. We will not implement a digital audio technology that doesn't satisfy the judiciary that the record they are getting is a

clean record and an accurate record and that we have fail-safe provisions to prevent anything being lost in cyberspace.

My view, having looked at the technology and having some familiarity with what goes on in the courts, is that the accuracy of digital audio recording is far superior to the accuracy of the kinds of technicians described in Hannemann, is at least as good as the accuracy of court stenographers.

Mr Bryant: That's what I was going to ask you. Are you saying to people who have concerns about this that the digital audio recording is at least as accurate and reliable as getting a human being to do it, a court reporter?

Mr Freiman: We won't institute it if it isn't. The side benefit is that it is infinitely quicker. One of the great obstacles in our civil justice system, and to an extent in our criminal justice system, is the length of time it takes to produce a transcript under present conditions. People who are familiar with the law or who have constituents who are waiting to have an appeal heard, whether it's in a criminal matter or in a civil matter, know the frustration of being told, "I'm sorry, the court reporter has not been able to get your transcript," because he or she is sitting somewhere else or has gone off on vacation, and we wait.

Mr Bryant: But in Hannemann it took five months for the transcript to be produced. Is that faster?

Mr Freiman: It's not digital audio recording, sir. Hannemann was not involved in a digital audio recording circumstance. That is our normal process. The issue in Hannemann was whether the operators, who are called court monitors, are worked to the same standards as court stenographers. The operator in Hannemann did not have the benefit of a digital audio recording device. It was dealing with something really quite different. It's a question of transcribing the standard audio tape. That's not what we're putting in.

The Chair: Last question.

Mr Bryant: So I guess Mike Harris and Charles Harnick were wrong in 1993. Is that what you're saying?

Mr Freiman: No. I'm saying Mike Harris and Charles Harnick raised an important issue. I haven't seen the letter, but the quote that you have given us indicates an anxiety on their part not to sacrifice quality on the altar of economy and not to dispense with employees simply on a whim, and we agree with that. I think the project is based on that sort of conception.

Mr Kormos: I'm looking again at the comparison on the chart that the auditor prepared in his report, between March 31, 1998, and March 31, 2001, a period of three years, in terms of the benefit-investment ratio and the hard numbers, investment costs and benefits, calculated numerically in dollars.

Mr Freiman: Could you give us a page number?

Mr Kormos: Sure. That was page 74.

I appreciate that you've been very clear that when you talk about the benefits, there are two types of benefits to be accrued: one is the financial benefits and the other is the non-monetary benefits. You made reference to those.

You talked about, for instance, the digital audio recording transcription system not having anything to do with saving costs but rather having more to do with improving the quality.

Mr Freiman: In fairness, its purpose is to improve the quality. It certainly has something to do with costs. We anticipate it can be a step toward efficiencies and the lowering of costs.

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Mr Kormos: The accrual of financial benefits is very important to the private sector partner, isn't it? That's the basis upon which they will get paid.

Mr Freiman: Yes.

Mr Kormos: As I understand it, there are only two ways to do that, and that is to reduce staffing among public sector workers who would be doing the job and who would be displaced by this technology—

Mr Freiman: I would say that's one of the ways to reduce costs, of which staffing is a very important component.

Mr Kormos: Could you talk about this technology impacting on some 22,000 workers? Did you use that number earlier today?

Ms West: Yes, 22,000 in terms of the impact of the project and the individual applications.

Mr Kormos: The impact that you're talking about, of course, is the termination of more than a few of those workers.

Ms West: No, that wasn't the intention; perhaps it's an impact.

Mr Kormos: Fair enough. But if one of the goals here is to reduce staffing and acquire savings, to wit, benefits, by virtue of reducing staffing, you're talking about termination of at least some of those 22,000 jobs.

Ms West: Let me just comment with respect to the impact on the 22,000 employees within the system. From my perspective, the impact that it will have within the OPP, for example, and the police services that use it will be enhanced public safety and security, individual security for them because of what the system—

Mr Kormos: OK. That doesn't reduce costs, though.

Ms West: —and it will reduce costs within the police system. The reduced costs are associated with efficiencies that are found within the system. It doesn't call for any specific reduction of individual staff but a general reduction in costs and an ability to realize greater efficiencies and lesser costs there.

Mr Kormos: You're not anticipating that this project, once completed, will displace any jobs?

Ms West: Within the police project.

Mr Kormos: OK. I'm going to refer to that in just a minute. But surely in other areas you are then anticipating that it will eliminate jobs.

Ms West: I'll let my colleague speak to their components.

Mr Freiman: It's difficult to quantify in terms of individuals and what will happen to a given individual. If indeed the technologies allow for greater efficiencies and allow us to do electronically that which was done

manually, then it is anticipated there will be less need for clerical personnel, especially. It's our hope that there will be a minimum of displacement, because the fact that we need fewer people in the more mundane, repetitive, clerical-type jobs may open up further opportunities in more rewarding jobs. But overall, whether it's through normal attrition or other means, we anticipate there will be a reduction in staffing.

Mr Kormos: Do you know by how much?

Mr Freiman: Probably several hundred.

Mr Kormos: Somebody obviously purported to be able to calculate, by way of estimate, the benefits. As I say, those benefits are in dollars and cents, so those benefits are either fewer jobs or increased revenues. Is that fair?

Mr Freiman: It's greater efficiencies or—

The Chair: Can you get a little closer to the mike, please.

Mr Freiman: I don't want to quibble, because I think by far the most significant aspect of that will be in staffing savings.

Mr Kormos: The most significant will be in staffing savings?

Mr Freiman: I would have thought, in terms of the savings, the most significant will be staffing. I think probably in terms of revenues there are a number of opportunities for increased revenues, especially in terms of filing fees and similar fees.

Mr Kormos: You mean increasing the filing fees?

Mr Freiman: And having new filing fees for new services. E-filing, especially, opens up the opportunity to realize revenues by providing new services and access to those new services at a fee.

Mr Kormos: That makes me curious, then, about the figures that are referred to, where over a three-year period of time, from 1998 to 2001, there is a dramatic reduction in the estimated benefits.

Ms West: Maybe I can just respond to that. I think we were referencing this earlier today as well. The major reason for a reduction in benefits is that the original contract had a fixed term associated with it: a fixed term for the work term for the implementation and a fixed term for realization of benefits. As we described earlier, for various reasons, the implementation period has been delayed. So the way that you see that calculated and presented in the auditor's report represents the total benefits for a particular period of time—that is, the current contract period—that would be realized on a cumulative basis as well as the cost that would be realized over that period of time on a cumulative basis.

The reason why one would see an impact on the lessening of benefits is because of the delayed implementation of the systems, delays actually of realizing the benefits, and so within the contract period of time there is less time to actually enjoy the benefits that get realized.

Mr Kormos: Then I refer to page 80 of the auditor's report and we find out, for instance, it was agreed that the \$10.5 million to be collected from the municipal police services communities wouldn't be collected because of

the nature of the sharing of the service and because it would be inappropriate to charge those services for putting their information on and, in return, getting their information back.

Ms West: This is a factor, once again, about the early stages of planning, the definition of the project and assumptions used at that point in time. The way the municipal police services, beyond the OPTIC services, the ones that share the OPP system—so this is in reference to municipal police services like Toronto, York region and Peel region. Their relationship to the project is on the exchanges of information: exchanges between crowns, so the crown brief exchange; exchanges between courts and the disposition of cases.

Mr Kormos: Sure. The next item, which also involves you, talks about the assumption that \$5.8 million was going to be saved because police wouldn't have to be involved in arranging the scheduling and managing police officers' court appearances. Yet it was discovered that in fact this was being done by police officers on light duty or on short-term assignments.

Ms West: Again, in concert with what I was saying earlier, there were assumptions that were made at the very early stages, as the project was defined, at a high level. Those assumptions set out that the police services outside of our OPTIC service who would be involved in exchanges of information, for example, would realize real quantifiable benefits. An assumption they had, for example, within their records management areas was that, because their staff were now doing it electronically and wouldn't have to do duplicate inputting and receipt of information, they would be able to reduce their numbers. As we further checked that out, as I said, as we went through further exploration with our partners, we discovered that that was not the case, that they could not commit to that, that those staff could not be further deployed. They wouldn't acknowledge that quantifiable benefit, and so we couldn't hold it to them.

Mr Kormos: For the life of me, I can't believe that your ministry would have made that error and those assumptions.

Ms West: The assumptions were made at a stage in which there had been some discussion among the municipal police services but not complete discussions with them and not a complete analysis of what each municipal police service had as part of their core staff and how this could benefit them.

As we further explored the possibilities, we discovered that that assumption was incorrect. As a result, the municipal police would not commit, and could not commit, to releasing something in the nature of \$10 million for the sake of the project.

Mr Kormos: Then on to page 85, where the auditor takes note of the fact that the taxpayer was shortchanged to the tune of around 10% in terms of the evaluation of the public sector workers' salaries—that is to say, the public sector workers who were working on this project—the shortchanging being that if it's off by 10%, then the province isn't accurately recording its contri-

bution to effect its 25% participation. Fair enough, and I understand that has been responded to, right?

Ms West: Right.

Mr Kormos: But more significantly is, just as the taxpayer got shortchanged by undervaluing that public sector work by 10%, the private sector may have been enhanced significantly by grossing up salaries to the tune of almost 400%. The auditor makes reference there to a public sector salary of \$340 a day yet for the same job the private sector partner charging back \$1,200. What's going on?

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Ms West: Again, this relates to an issue that we discussed earlier. With respect to the rates that were identified and charged by the consortium, these rates are, we think, quite reasonable and fair given the risk that the consortium is taking on. The risk that the consortium is taking on is that they will invest in the project up to \$200 million and there is no guarantee of return. As a result of that, of course one expects that the rate by which they charge that would include an opportunity for realizing a higher profit. That's represented in the premium rates that they would charge.

We think that's quite understandable given the nature of the project. It's once again looking to balance the risk and reward that's available to the partner. The consortium partner actually has the higher risk and currently has invested over \$130 million in the project and has received back a total of \$2 million in return.

Mr Kormos: Quite right. So when the auditor talks to the need to justify and document that disparity, that differential between ministries' rates and the consortium's rates, what you said, in your view, constitutes the justification?

Ms West: I agree that there has to be an appropriate documentation of the justification, and the justification is in the nature of reasonable rates given the risk that's being assumed.

Mr Kormos: The implementation to date and as projected: are there locations or venues in which indeed additional staff may be required as a result of the introduction of this technology?

Ms West: Obviously for the planning and implementation of the project itself, of course we have additional staff involved in that. Those staffing costs, as we've just been saying, are part of the cost-benefit projections in the business case.

Mr Kormos: What about the head office up in Downsview, which Shelley and I are determined to visit soon?

Ms West: On the support of the systems going forward, of course there will be additional costs associated with supporting and maintaining the systems that we put in place. As we've said, the benefits are intended to offset those costs.

Mr Kormos: You said "several hundred" staff people. We've gone through the Sol Gen areas and we've discovered that some assumptions made about displaced staff people simply weren't correct. As I said, I can't

believe the Solicitor General made that mistake. I'm sure the private sector people would have made those assumptions and driven them.

We're talking about the prospect of additional staff being necessary to run some of this hardware and other computer stuff, because that leaves fees, revenues, as the other avenue from which benefits will be derived.

You talk about the private sector's risk. So far, they haven't met the target—remember the twofold target that we spoke about this morning of the maximum capital contribution and meeting the benefit-expense ratio—indeed, we're far from it, and yet they're still being accommodated. Isn't the recourse now to either generate new fees or to increase existing fees, if there's going to be profit in this for the private sector?

Mr Freiman: Not necessarily. First of all, I wouldn't make any assumptions at all about how the final reckoning will be made. My colleague has rightly pointed out that the consortium is now in a position where it has invested a large amount of money and it is not entitled to any return until benefits are realized. That probably alerts us to the fact that the risk of overestimating benefits falls disproportionately on the private sector. If there has in fact been a miscalculation, then to the extent that they bear the lion's share of the risk, they will be the ones who suffer from the fact that the benefits have been overestimated as compared to where they are now.

I'm not sure about your reference to continuing to accommodate the consortium. The fact is that while we're renegotiating, the contract that now exists remains in force, and we continue to operate under it, and that means they continue to bear the lion's share of the risk, and to the extent that benefits are inadequate, the main burden falls upon them.

In terms of adjustments, again, I don't want to pre-judge anything as to what the consortium may or may not be entitled to, but insofar as you're asking about fees being a potential vehicle, we are limited. Even if we wanted to be unreasonable, the law is really quite clear about what you can do by way of fees and how fees are to be quantified. Fees cannot exceed the actual cost of providing the service.

Mr Kormos: I want to go back to the \$1,200 per day for the \$340-per-day staff person. I want to make one thing clear, at least in my mind: the fact that the private sector consortium is charging back \$1,200 doesn't in any way, shape or form mean that they're paying that person \$1,200, does it?

Ms West: No.

Mr Kormos: Indeed, they may be paying that person no more than what that person made, the \$340 a day, in the public sector.

Ms West: And of course what the consortium is charging for is all their overhead—

Mr Kormos: No, no, I understand. But they're charging back \$1,200 and they may be paying no more than the \$340 that person was earning in the public sector.

Ms West: That's possible. I don't know the particular salary rates or the individuals—

Mr Kormos: They may be paying less.

Ms West: I don't know what their individual salary rates are.

Mr Kormos: They may be paying less. That's fair, isn't it?

Ms West: I agree.

Mr Kormos: If they were astute capitalists, they would pay less.

Ms West: I don't know how they would keep the staff of that quality and expertise, but I can try to—

Mr Kormos: Astute capitalists have their ways and means.

Ms West: Yes, I agree with you. But again, just to remind us that they can charge and note that as their investment; they aren't guaranteed any recovery—

Mr Kormos: I understand. I just want it in my mind because sometimes we sit here, and this came up with Andersen, you know, those scoundrels, those thieves over there, Community and Social Services. Thank God this isn't anywhere near as bad. It isn't the criminal scandal that Andersen is, it's a mere scandal. It doesn't have the criminal qualities that Andersen did, and does.

In Andersen, we were assuming of course that they were paid. People were operating with the assumption that these staff were getting paid. But, again, I understand this is because of the risk these people are taking.

Now, were fees an essential part—the fees charged by, primarily, I assume, the Ministry of the Attorney General, because I'm not aware of any that are charged out of the other new ministries—were fees an issue in the initial round of negotiations with the private sector parties?

Mr Freiman: You mean in terms of the renegotiation or the original—

Mr Kormos: No, the original fees. Was disclosure demanded or required of the fees, the revenues, that the Ministry of the Attorney General acquires through the justice system?

Mr Freiman: Part of the business case was fees—always. In any renegotiations, an examination of fees is part of it all, but always subject to, as I said, very, very clear limitations imposed by the law.

Mr Kormos: Yes. So the private sector had full disclosure, from the government, of the revenues from the Ministry of the Attorney General in the first round.

Mr Freiman: I'm not sure that's correct.

Mr Kormos: Well, you didn't lie to them.

Mr Freiman: No. The issue with fees is the amounts that can be charged for new services, and there was a discussion of amounts that could be charged for new services.

Mr Kormos: The reason I'm asking that is because they knew full well what the revenue capacity was of the justice system back in 1998, the private sector.

Mr Freiman: To some extent, though—I don't want to quibble—the major focus of discussion would be on the possibility of creating new revenues. So it wouldn't be what's already there; it's what might be created.

Mr Kormos: OK. Fair enough. And over the course of three years-plus, the private sector partners have learned that the reduction in the staffing component is far less significant than what they appear to have anticipated it was back in 1998.

Mr Freiman: That's probably correct.

Mr Kormos: So clearly their ongoing participation is in reliance upon new revenues, isn't it?

Mr Freiman: No.

Mr Kormos: Is it just good-hearted capitalists?

Mr Freiman: No. Just as our goal in the negotiations is to maximize the benefit to the government and therefore to taxpayers without increasing the risk or exposure, their goal is to minimize their risk and maximize their revenues, and they're looking for ways. We consider those ways. If they're doable, then we'll try to do them; if they're not doable, we can't do them.

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The Chair: OK. We'll have to leave it there.

Mr Kormos: Thank you. But we don't have to.

The Chair: We must be fair to all sides here. Mr Maves.

Mr Maves: In Mr Kormos's questioning he talked about the wage rate for some of the private sector positions. You started to talk about what is included in that wage rate. I'll afford you the opportunity to expand on that.

Ms West: Specifically, what they would include and why they would charge a particular rate—I was speculating as to why the rates would be higher, and they wouldn't specifically be what the consultant or the consortium would have to pay their individual employees. So within their rate, of course they would take into account their other costs associated with providing services to the government.

With respect to, again, why they would be charging a higher rate, that relates, obviously, to the risk they would be assuming with respect to the project and the fact that they may not recover, and so they're looking for their premium return for assuming that risk.

Mr Maves: So in a wage rate that's in a contract of this sort you're going to have overhead, actual wages and benefits paid to the employee conducting the work, profit, risk, a variety of things. Did you know the wage rates coming in? Did you know the wage rates that were going to be charged when you entered into the contract?

Ms West: That would have been part of the early negotiations and would have been agreed upon at the time the contract was concluded. There is provision within the contract with certain conditions for an increase by the consortium of those rates, and they have not been increased since the start of the project.

Mr Maves: OK. One of the principal parts of the auditor's report was a benefit stream that was estimated to accrue from implementation of the project until 2005, and so when the benefit stream has been reduced from \$326 million, which was estimated, to \$238 million or whatever, that reduction is the benefit stream, and the auditor's report on page 79 says, "A large" part of this

"was attributable to delays in introducing new systems," and therefore the reduction in the benefits, or a reduction of benefits that are going to be realized between now and 2005?

Ms West: That's the largest reason for the reduction of the benefits. It's just that the current contract term, the current benefit term, won't allow for actual recovery, accumulated recovery, of the benefits to the extent that was assumed because of the implementation date of the projects. Because the projects have been delayed in their implementation, the benefits at the same time have been delayed.

There are other specifics, as Mr Kormos has identified, in which there are specific areas, on the basis of assumptions made at the early stages, that certain benefits could also be included but then later it was discovered that they could not be realized. But the major reason for that reduction is the time factor.

Mr Maves: Right. So some of those benefits which won't be realized between now and 2005 because of delays will in fact be realized at some point in time beyond 2005.

Ms West: Absolutely. The way the contract works, of course, is that after the benefits term—and the benefits term is that term during which the consortium can share in the benefits—they are limited to that degree. But in fact those benefits actually continue on an annualized basis forever, if you will, and for the time after the benefits term, the government receives 100% of the benefits return.

Mr Maves: So dealing with the contract that's in place now, post-2005 the entire benefit stream will, 100% of it, accrue to the government.

Ms West: That's right.

Mr Maves: And that will be the case forevermore going forward.

Ms West: Correct.

Mr Maves: And EDS: any benefit that they'll possibly receive going forward would be in the sales of their systems that they're able to develop for Ontario?

Ms West: They don't have proprietary rights in the systems. That would rest with the individual suppliers. One of the other values that I think EDS and the partners see in participating in this project is the fact that they can present themselves to other jurisdictions or other organizations as this having been a major accomplishment, and therefore demonstrating their competency and ability to be able to take on projects of a similar size, nature, complexity. But they don't have the proprietary rights to benefit from the specific application of our systems in other jurisdictions.

Mr Maves: Do you have a revised estimate now, upon full implementation and post-2005, of the annual benefit stream that will accrue to the government?

Ms West: That's something that forms the basis of the business case, that forms the basis of the negotiations, so at this stage in time I wouldn't want to disclose that, because it's pertinent to the negotiations underway.

Mr Maves: OK.

Ms West: But certainly as the negotiations go forward, the intent is, the goal is, to ensure that those benefits realized offset the costs being incurred and to be incurred into the future.

Mr Maves: Mr Kormos also raised the issue, as the auditor did on page 85, "that the project management office incorrectly calculated the per diem rates of the ministries' staff. As a result, the rates charged were about 10% below what they should have been." Has that been rectified or is that part of the current negotiations?

Ms West: That's something, first of all, that we couldn't rectify because it had been agreed to.

Mr Maves: Right.

Ms West: But as part of our current negotiations, rates, both on the government side and the consortium side, are part of the consideration for negotiations.

Mr Freiman: Maybe just to add one point that may have escaped some people: whether or not there was an error in the original calculation, the amount by which the government is credited for its investment of time is also subject to a gross-up. It was intended to be at the top of the salary scale for the public servants in question and then it was grossed up in order to balance to some extent the gross-up that's implicit in what the consortium was credited with. That really gives us a graphic illustration of how we have to think about this. On the government side, it's not that we're paying the public servants an extra 40% to work on this project. We're grossing up their salary to account for some of the same things my colleague talked about in terms of overhead etc. We get credit as an investment for the grossed-up amount, just as the consortium gets credit as an investment for its grossed-up amount and then at the end of the day, to the extent that benefits cover those expenses, there's an entitlement to recover it. If the benefits don't cover the costs, then you never get it back.

Mr Maves: I want to return also to an issue that was raised earlier by Mr Bryant and the auditor about security concerns. I'd just ask the auditor first, in your statement about the security measures on the system, how many breaches did you uncover?

Mr Peters: We didn't uncover breaches. We just uncovered weakness in the system. As we described, a single-letter code was allowed. Also the particular—let me just find the reference. I think there was also a reference made to the fact that very often, if you make three attempts with a false password, the system will shut down on you and say, "Go away, we're know you're not an authorized person." We also found that that feature was not working. We did not find individual breaches but we did find weaknesses in the way the security was applied.

Mr Maves: You talked earlier in the first group of questions I asked you about field testing parts of the system that you're moving forward with and you field tested those that are already in place.

Ms West: Sorry, is this still relating to security, or just generally field testing?

Mr Maves: In your systems, both the police system and—

Ms West: Yes.

Mr Maves: You've field tested them?

Ms West: Of course, yes.

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Mr Maves: What feedback did you receive from people during the field test about security breaches?

Ms West: I'll speak on behalf of the police issues. I'm not aware that we received any particular concerns about security breaches. As we described earlier, some of the reference to the weak, if you will, controls that were seen to be in place were actually being used at the time that this testing was occurring. Certainly we recognized, once we put the system into place using real data, that the security systems had to be appropriate for the data that were part of it. So on field testing, I haven't heard that there were any concerns about security breaches per se beyond generally dealing with security as a necessary part of the system. Morris, do you have anything to add?

Mr Zbar: Again, I think where we need to start is that the successful and secure operations we're talking about, certainly in corrections, rely first and foremost on staff. Staff—probation officers, correctional officers—have access to these systems. They are professional, they understand what the security concerns are, what the needs are. They have protected passwords and they retain those protected passwords. I'm not aware, as I say, of any security breaches. We certainly are cognizant of the Provincial Auditor's concern about security and we take it very seriously. We are looking at ways of constantly improving security.

PKI was mentioned earlier. That's a government standard that's currently being developed and implemented across a variety of systems, including ours. We're constantly looking for ways of improving security. But in corrections, again, most of our hardware, our computers, are either in jails or in probation offices. The access there is generally limited to staff, and staff are very cognizant from a training point of view in terms of security measures.

Mr Maves: You field tested your OTIS system with the parole officers and probation officers?

Mr Zbar: The system is live, so—

Mr Maves: I know that. Before it went live, you field tested it?

Mr Zbar: We did some tests, yes.

Mr Maves: OK. When you went live, there was training for all parole and probation officers?

Mr Zbar: Yes, prior to going live, during going live and continuing. As I mentioned earlier, we have a number of training initiatives and opportunities.

One, we got together a group of probation officers, actual practitioners, who became associate trainers. They were trained in the system prior to it going live. They went around and held training sessions with all of their colleagues. That was before going live. We decided after going live, because this was such a complex system, that we would retain those associate trainers. They were around for a number of months following going live to

deal with concerns that probation officers have and to continue the training.

Second, we expanded the help desk operation so that people can call if they have a technical problem or don't understand a certain field and can get advice and help on it.

Third, we had on-line training as well as part of OTIS, where you could go on line and get information. We continue to do training. We currently have, as I mentioned earlier, a number of focus groups made up specifically—and I'm referring to probation, although the system is in the institutions as well. But it's the probation case management that requires this complexity, so I'm focusing on that. We currently have focus groups—I believe some of them are meeting this week—to look at what else needs to be done in terms of facilitating usage.

Again, I want to stress to you, we went from a paper-based ministry to a computer-based ministry in 1997 and 1998. We've gone from total paper to almost 100% computerization. It hasn't been without pain. It's a major adjustment for folks who have not used computers, especially folks of my generation. The younger ones—I shouldn't make reference to age, but generally folks who are coming in—we just hired 165 new probation officers. This is second nature to those folks. They don't have a problem with usage and technology. Some of the folks who haven't grown up in a computer environment have experienced problems over the last four years and we have worked very hard with them because they are good probation officers. We have worked very hard with them to assist them in terms of providing courses and classes and being very patient in terms of utilization, and we continue that.

Mr Maves: What's been your feedback from the field, then, when you field tested, when you trained and now that you've implemented the system? In general, what's been your feedback on your systems?

Mr Zbar: As mentioned earlier this morning, it's mixed. We've had some positive feedback. I think almost everybody, to a person—although I shouldn't say that—would say this is a very good offender tracking and information system. It's very robust. It has the mug shots and a whole bunch of features that didn't exist.

I think where people have expressed concerns is with the case management component of the system because of its complexity. As I mentioned earlier today, we have taken steps to try and address that. But going forward, we anticipate that if this system is anything like the previous system in terms of time frame, we're going to be using this system for another 10 to 12 years minimally. It has room for tremendous growth. It allows us, from a public safety point of view, to put in all kinds of additional features, and what we need to do is stage those things so that we don't overload our folks right at the beginning. We're making adjustments as we go along.

As was mentioned earlier, any time you introduce a major provincial system—which this one is, a stand-alone system, there are implementation issues, and I would not deny those things. But the fact is the system is

up and running. It runs every day. It tracks the 80,000 offenders on a daily basis. It has 60 million records which are still there. It's being used every day in 124 probation offices, 45 institutions and is tracking, as I mentioned earlier, the courts' movements and a whole variety of other things.

We understand the challenges and I don't minimize them. I would not do that, because that would be disrespectful to the probation officers who are my colleagues. I understand the concerns and we are working on them with them, and I stress that: "with them." We have involved probation officers, we continue to involve probation officers, and if there are problems in the institutions—again, I'm not mentioning institutions because there don't seem to be those issues, because the case management system isn't as important to the records people in institutions. But whenever there are problems, we bring folks together to deal with them. We have done that and continue to do that.

Mr Raminder Gill (Bramalea-Gore-Malton-Springdale): Thank you very much and I do appreciate it. On page 74, I see the benefit-investment ratio. First of all, let me emphasize: I think we all agree that the integrated justice system is a good thing and soon will be implemented better. I think that has been agreed upon. Going to page 74, it says that the benefit-investment ratio on March 31, 1998, was estimated to be 1.81 to 1. Then on March 31, 2001, the estimation was reduced to 0.76 to 1.

I read somewhere this morning in one of the clippings where the Provincial Auditor is saying that it may be as low as 0.5 to 1. This is in the December 10, 2001, *Law Times*, in the very last column. Do you see that? Are we heading toward zero benefit ratio? Is that what we're getting to; from 1.81 to 0.76 to 0.5?

Ms West: First of all, you're quite right in referencing that these are projections. These are projected ratios based upon projections of costs to the end of the current contract term and based upon projected benefits to the end of the current contract term. This is the area in which effectively it's not meeting a discontinuance criteria that either party, as we've heard earlier, could decide to exercise and remove themselves from the project. That's why we have our negotiations currently underway.

As part of the negotiations underway, certainly one of the things we're looking very closely at is the cost side. We've worked very hard, both parties, to try to look at how we might reduce costs to further cure this particular ratio. But the major factor that reduces benefits on one side and increases costs or investment on the other side relates to the delay in implementation. So what we're recognizing is that one of the things we do have to consider is pushing out the work term to recognize what the true work term is now. We've talked about the implementation; it's been delayed. We now have to adjust it according to the work that's required to complete the projects as currently projected. We have to look at the work term as well as the benefits term, and by doing that the result will affect the benefit and risk-to-investment ratios.

The point of the negotiations is to look, among other things—there are other issues, of course, that we want to consider to improve our project delivery and to improve clarity and accountability as part of our negotiations. But certainly that's what specifically has to be addressed to bring the project back to a ratio that will allow for its completion.

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Mr Gill: If the trend is that it's not being attractive, then my concern is, would the EDS partners or anybody else who happens to be involved still be involved or still want to be engaged in that?

Mr Freiman: Of course that's really why we are in negotiations right now. It's never attractive to face a situation where you don't get back your investment. That is certainly an undesirable way for the private partner to continue in the project, and they are looking for creative ways and we are looking for creative ways to meet their concerns without disturbing our concerns and without disturbing our responsibility to protect the taxpayers of Ontario.

Mr Gill: I understand we've spent about \$130 million. Is that what we've spent so far?

Mr Freiman: We have not.

Mr Gill: The project has cost \$130 million?

Ms West: The project has cost about \$170 million; \$130 million of that has been the investment of the consortium.

Mr Gill: How much of that would be hardware costs?

Ms West: I don't know that I've got that information, but—

Interjection.

Ms West: A very small amount. I'm hearing "a very small amount." I know that's not a quantified number.

Mr Gill: Just estimate.

The Chair: Are we talking about \$1 million, \$5 million, \$10 million?

Ms West: It's less than \$40 million. Does that help?

Mr Gill: So a lot of that is so-called soft costs—software costs, if you want to call it?

Ms West: A large component of the costs associated with this, as we said earlier, is the staffing costs: staffing costs on the part of the consortium and staffing costs on the part of the government. Then additional costs would include software as well as hardware acquisition.

The Chair: Do you have a number of other questions, because we'll have another round after this, or else I will let you go for another few minutes.

Mr Gill: No. In the interest of saving time I'll stop. I've got one more.

The Chair: Go ahead. We'll just add it on to the time for the others.

Mr Gill: If I can make an observation, I think there was some discussion at length about digital audio recording. From my experience in the medical field—not that I've been in the medical field, but I have some knowledge of that—it seems to work quite well in terms of the accuracy of digital audio recording and in terms of the timeliness, as I understand, in the hospital setting with

the specialists' notes and all. It's done pretty well overnight. Any improvement in that—and I know there's a great accomplishment in the medical field, where the accuracy, which has to be there, is there. If I can somewhat alleviate the concerns about the accuracy of that. Do you want to input on that?

Mr Freiman: I can say that the technological standard is high now and increasing all the time. It does lead to a benefit in a number of important areas. Especially in a multicultural environment such as we have in Ontario, there is a large variety of accents and inflections that one finds in a courtroom on a daily basis. Those can sometimes pose a real challenge to human operators. The digital audio recording seems to be able to deal with those challenges at least as well as, and in most cases better than, human operators. To the extent that it can do that, it's a great benefit to us as well.

The fact is that the accuracy, already high, is improving consistently. I think you're right: the example of medical technology and the medical applications gives us good reason to have confidence that the technology, the technological end, is sound. As I said before, and it's important to stress, we've made commitments to the judiciary about the accuracy of this technology, and we're not letting it out the door until the judges are satisfied that what they're getting meets their needs. We've told them it's going to be as good as what they have now or we're not going to implement it.

Mr Gill: One of the things that was mentioned earlier is that one of the reasons for the cost overruns, if I heard correctly, is that when you went back to the courtrooms and realized that what they needed was going to cost more, one would think that would be the starting point, not that you went back to the courts in between and found out what they needed.

Mr Freiman: Maybe it's best understood as a dialogue of sorts. Remember, we were starting out, as my colleague said, without hard numbers. We were starting out with a vision that we tried to translate into numbers and predictions. The folks who put together the business cases were, in my submission, highly motivated to get it as right as they could, because the accuracy of the projections would have a direct impact on what they could expect at the end of the day.

As an aside, perhaps I should say that I think the government of Ontario and the people of Ontario were well served with the kind of project we have, where the risk is largely on the private sector, because it is a high-risk project. While some may have difficulty with the nature of the reward or the quantum of the reward that potentially was available to the private sector, from the point of view of what's been called insurance, the fact is that the risk was to a significant extent shifted to the private partner in a circumstance where it was clear it was high-risk.

We tried our best. It was in our interest and in the consortium's interest to get it right. The parties did what they did and thought they had it right. It's in the nature of these things, as you try to apply in reality what you have

down on a piece of paper—or hopefully on a computer somewhere, since we're trying to get rid of paper—that you come up against reality and start to understand where the problems are. That becomes the initiation of a dialogue to say, “Wait a minute. Let's now correct our assumptions and see what that does.” That has an effect on the business case.

That in turn leads you to re-examine some of your other conclusions, and it is a continuing dialogue until such time as you can actually implement it. In our case, the reality is—and we've said this throughout the morning and now into the afternoon—that what we know now doesn't bear out a large part of what we had hoped would be the case when this project started.

In my view, people have behaved very responsibly as they've realized there were matters that had to be adjusted, and they've come together. The consortium has been entirely honourable in this in terms of sitting down and seeing what can be done in our mutual interests to correct any errors or any deficiencies and how we can move forward. You're right: it would have been much better if we could have understood this at the beginning. But there has to be a starting point somewhere.

Mr Gill: You did mention that it's a very large project, one of the largest projects the province and the private partners have undertaken. In what context is it the largest? Is it Ontario-wide, Canada-wide or worldwide?

Ms West: With respect to the nature of this project, this is the largest of its kind that we're aware of anywhere. Certainly for Ontario it would be the largest project we've ever undertaken. Certainly within the justice system in Canada it's the largest integrated justice approach that's been undertaken to date. So it's complex in that nature and it's complex in the numbers of people who will be affected by it, who use the current systems or the future systems. It's unique in the technology that's being used; it requires a business transformation in most of the areas in which it has been applied.

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Mr Freiman: If I could just supplement that, I think in fairness there is a possibility—and we don't have the numbers, obviously. The British justice system is undertaking a massive transformation not dissimilar to our own. At maturity, I suspect it will be larger than ours because they have a larger system than we do. But they're undertaking roughly comparable sorts of initiatives—not exactly the same because they don't have the same players at the table. They're doing it more in what we would call silos than we are. We're trying to work with the entire justice sector because we recognize, as a number of inquests and a number of other sources have recognized, that we are all interconnected in the way we deliver justice and it would be a very good idea, therefore, if we were all interconnected in the way we collect data and in what we know. We should know the same things our partners know and we should share that and be able to leverage that.

Mr Gill: Last question for now?

The Chair: Sure, last question.

Mr Gill: In terms of the current negotiations going on, when do you estimate them to be completed and, if you know, what's the worst-case scenario of the cost?

Mr Freiman: I'd have to respectfully decline to give our negotiating partners any inside knowledge as to what our bottom line is. I don't think we should do that. It's a little dangerous, also, to speculate on time. I don't want to set false deadlines. The reality is that there is a contract in place that regulates the relationship between the parties. It's not satisfactory, given the true fiscal situation, to either party to continue, but the project will continue under that contract. Both parties are motivated to make the adjustments necessary to allow us to continue before the end of the contract term.

Mr Gill: Is that the reason you didn't have a worst-case scenario in the start?

Mr Freiman: No. I think what we've been saying all morning is right: the simple explanation is that people did the best they could with the information they had. Looking back on it, it probably would have been a better idea for them to give a range. For whatever reason, they thought they had it right and they used the numbers that they came up with.

But again, it wouldn't have been that everyone would have been bidding to go as high as possible. Both sides would have been highly motivated at the beginning to get it right, because to the extent you don't get it right you're instituting a business case that is going to get into difficulty at some point. Neither side would have wanted that.

The Chair: OK, thank you very much. We'll give some additional time to the two other parties as well. So now it's Mr Crozier.

Mr Crozier: Based on your experience and the business plan, in retrospect, had we known that rather than a project cost of \$180 million, it was going to be \$359 million, and had we known that, at least at this point in time, the expected benefits would have been reduced from \$326 million to \$238 million, would you have gone ahead with this project?

Mr Freiman: It's not clear to me that we can actually do that sort of a calculus, because if we can go back to the beginning, had we known then what we know now, we would have known that the time frames would be different and would require a different provision. What we've heard today, for instance, is that the benefits are declining, not because there are necessarily that many fewer benefits—there may be some adjustments. Mr Kormos is right: there have been some revisions downward on a number of the benefits that simply were optimistic. But a large proportion of the decline in benefits has to do, as my colleague has pointed out, with the fact that they're going to fall outside of the benefits term.

So it is likely, if we were starting with what we know now, that we wouldn't have the same timelines and therefore the calculation of benefits would have been different. It's also likely that if we knew then what we know now, we would have started out with a different assumption about out-of-the-package software. We

would have built into the business case—and therefore the costs would have been somewhat different, but we wouldn't be surprised—something that didn't rely on out-of-the package, and so some costs that, frankly, were directed toward implementing that would have been avoided.

So we wouldn't have had the same cost structure, we wouldn't have had the same benefits structure. What we would have had, with the benefit of improved information, was a more accurate business case that probably would have featured lower costs and somewhat lower benefits.

Mr Crozier: So when I stand back and look at this and take into consideration all our discussion, is it fair for me to say, notwithstanding these obstacles you've run into and are going to have to deal with, we would have done it because it needed to be done?

Mr Freiman: Yes.

Mr Crozier: OK. I appreciate, hindsight being what it is, that—

Mr Freiman: That's why, speaking, I think, on behalf of all of the deputies, it was encouraging to hear the first words from this committee being words of support for the concept of the project. That there are things we wish had turned out differently no one can deny, but the justification for the project that was there when it was initiated continues to be there. It is a good thing to link the three ministries. It is a very good thing to allow the police and the courts and corrections to exchange information. A number of coroners' juries and, I believe, a number of judges commenting believe that we can save lives by doing this. It's hard to put a price tag on saving lives.

We're here to explain how we got to where we are and to demonstrate that we have learned a great deal from what the auditor has pointed out to us, but we're not here to say that we shouldn't have done this. We should do this.

Mr Crozier: Good. I just want to add the comment that the observation was made earlier that these information technology projects always go over cost. I just hope we don't accept that as fact and that that's the way life has to be. I hope all of us try to get it better the next time on the next project, that's all.

Mr Bryant: I got cut off by our non-partisan Chair here, so I just wanted to wrap up on a few things. No, our Chair is doing a great job.

Just to return for a moment to the issue of court monitors, Deputy Attorney General, I understand that you were saying this wasn't an issue of a faulty audio recording, but rather it really comes down to quality control and the court monitors. But I know that the deputy wouldn't want to defend the five-month delay in getting a transcript out.

Mr Freiman: Absolutely not. As you'll be aware from your experience in private practice, there is nothing more frustrating to the parties than to be told they can't proceed because they're waiting for a transcript. I'm constrained to say it's inexcusable in this case, but it is

not unheard of with the most highly trained court stenographers using the most modern transcription equipment—not digital audio recording—for the same sorts of delays to occur.

Mr Bryant: You may have addressed this, so I'm sorry if I'm asking you twice: what did your ministry do after Hannemann to try and ensure that this didn't happen again?

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Mr Freiman: Certainly, we improved the quality control. I'd like to say, and I believe I can say with some assurance, that this was an isolated case. I won't get into details, but most disasters are the result of a concatenation of a number of necessary but not very significant factors coming together at once. Had one of them been different, this wouldn't have happened. Included among them were illnesses, replacements, training issues and personal issues. You can't eliminate all of those, but we've increased the quality control. We have reduced to writing some of the protocols that concerned Mr Justice Hill to ensure that we comply with not only the spirit but the letter of the Criminal Code, which Mr Justice Hill pointed out to us we might not be complying with. Most importantly, we've been consulting with the judiciary to ensure that their observations are taken into account in our court practice.

Mr Bryant: An article in the Law Times reported on this case. A spokesperson for your ministry said that since Hannemann was released, the Attorney General released a two-page memorandum that clarifies the role of reporters and monitors and lists recording devices approved for use in the courtrooms by the ministry. Can you make that available to the committee?

Mr Freiman: I'm sure we can. Again, just to be clear, that was done to meet not Mr Justice Hill's complaint about quality but the fact he pointed out to us that there were certain details in terms of certifying under the Criminal Code that he believed had not been totally complied with. We might have had a slight difference of opinion on it, but there's no point in arguing when the easy thing to do is make it absolutely transparent. I can't imagine it is anything other than a public document, and I'll provide it to you.

Mr Bryant: Switching gears just for a moment, you've spoken of ensuring the judiciary is satisfied. We've had raised some issues impacting those who are concerned about victims' rights, maybe not necessarily in your ministry, but they are nonetheless involved. Is the Office for Victims of Crime involved in any way in terms of auditing, if you like, or overseeing what is happening to ensure that victims themselves are also going to be satisfied?

Mr Freiman: Again, I think I'd better turn that over to one of my colleagues because, to my understanding, that wouldn't be an issue yet, in any event, in any of the applications from our ministry.

Mr Bryant: So everybody knows this in your ministry.

Mr Freiman: Yes.

Mr Bryant: But as far as you know, the office is not involved as an auditor at this stage.

Mr Freiman: As far as I know, the Office for Victims of Crime has not been involved and has not raised any concerns.

Mr Bryant: Along those lines, back to victims, I should ask, do you think it would make sense for the Office for Victims of Crime to get involved, given that confidentiality of victims' information has become an issue?

Mr Freiman: I have to say that, like my colleague, the first I heard of this was in the *Star* article this morning. I'm not sure I'm assisted a great deal in understanding what specifically is being referred to and what the issues are by a statement that says the system has no integrity. To the extent there are issues, we tried to ensure that stakeholders are involved in the solution of the issues. I'm not certain I understand as yet what the concern is, who has it and, therefore, what the solution is. I wouldn't eliminate the Office for Victims of Crime or other victims' representatives, but I hesitate to just jump up and down and say, "Yes, I think that's a great idea," until I really know what the problem is.

Mr Bryant: In terms of really knowing what the problem is security-wise, I guess we would turn to the auditor's report. We don't need to speculate on where the concerns are; they're spelled out.

Mr Freiman: But with respect, I believe that the specific concerns which the auditor characterized this morning as weaknesses have been addressed in terms of responding to the specific weaknesses. As my colleague did observe, the context in which the weaknesses were observed was not an operational context but a preparatory context. I can tell you that at home on my computer I have a one-letter password for Windows and my son has a one-letter password for Windows, because the only concern we have there is not to mix up our files. I also have a work computer at home, where I have four different passwords that have to change frequently, which means I'm always carrying around lists to figure out what my password is. But there it really matters, because it's an operational field. I wouldn't enter a one-letter password in my work computer, but I'm not going to enter an 18-letter password in my play computer to let me play solitaire.

So with respect, I believe we have addressed the weaknesses that were identified. The committee can at least rest assured there was no compromise of security, because there was no actual data on the systems where the weaknesses were identified.

Mr Bryant: On that front, let me ask: it should concern us that someone within a ministry involved in the integrated justice project, in particular, corrections—and this is someone who was quoted in the article—is saying that the offender tracking information system "acted like a virus, slowing the progress of my work and in some cases sabotaging it altogether." Is your ministry going to investigate this?

Mr Zbar: Again, I'm not going to try to speculate on what that individual means by what is being said there,

but I take it that it refers to some of the implementation issues we've had. As I've mentioned to this committee, we have done a whole raft of things, from training to bringing in associate trainers to having focus groups, to try to address those concerns. Again, those concerns, I believe, because you're referring to an article, and I haven't had a chance to find out what the specific issue is—

Mr Bryant: But you're going to.

Mr Zbar: I'm going to, but I would also suggest, based on what I do know about my colleagues in probation, that the concerns they have expressed are not with the offender information and tracking system; they're with the case management component in terms of the complexity of using the system. I think the reference there is to the use of the system. The individual being quoted or misquoted, whatever the case may be, is suggesting that it's cumbersome. As I said, we are looking into and are working with probation officers to see if we can streamline the screens. As I mentioned earlier, the assistant deputy minister issued a memo a month or two ago, which deferred some of the features so that probation officers wouldn't find it as cumbersome. We continue to train and meet with focus groups.

Mr Bryant: You don't have any reason to think this person was misquoted?

Mr Zbar: I have no reason to think that.

Mr Bryant: Again switching gears to consulting services, page 87 of the report, reference is made to the former Ministry of the Solicitor General and Correctional Services hiring a consulting firm. This is about the \$584,000 fee being paid for what was originally a \$250,000 contract, which had been revised to become a \$511,000 contract. The question is, how does a \$511,000 contract get paid with \$584,000 without amending the contract? How did that happen, and what are we doing to fix it?

Ms West: I'm not sure I can speak to how that happened. Again, we appreciate the auditor's recognition of this, and we note that an error was made and that we've taken measures to ensure it doesn't happen again. We have looked at our procedures. Ensuring compliance with government policies and procedures in contracting consultant services is very important to us. It's an area where we all have to guard against any non-compliance, and it's something we've already addressed by putting in further procedures to ensure there is proper oversight and monitoring of contracted services as well as the acquisition of any consulting services. Again, we will continue to monitor any of these consulting contacts. We will want to ensure they conform to corporate guidelines and are verified by supervisory staff.

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Mr Bryant: I'm not sure if the consulting firm was ever identified. Who was the consulting firm?

Ms West: I don't know if it was. I don't know myself.

Mr Bryant: You don't know. Oh, right, you told me that.

The Ministry of the Attorney General also had a contract for \$320,000, which rendered a payment of

\$581,000 without any amendment of the contract. Again, we won't speculate how it happened. I guess the question is specifically what's being done to—

Mr Freiman: Exactly the same controls my colleague has identified have also been implemented in the Ministry of the Attorney General, and we're confident that sort of problem will not recur.

Mr Kormos: I'm finished, but there are a couple of things that have been bothering me. You said that the government is into this for, what, around \$30 million or \$40 million?

Ms West: About \$40 million since our last—

Mr Kormos: About \$40 million for the taxpayer, and then EDS and its investors around \$140 million.

Ms West: Around \$130 million.

Mr Kormos: Around \$130 million. You see, this is what's bothering me, because I've listening to everything you've been saying and I appreciate what you've been saying. You relied upon EDS because you didn't have the expertise inside the government to do this big project. EDS provided that expertise that allowed you to create the budget and the business plan that was put to Management Board, right? You gave them all the best information you could and they relied upon that and put everything together and prepared this proposal to Management Board. Have I got that right?

Ms West: No. Well, the relationship between the government and EDS and the consortium is a partnership arrangement, so certainly we relied upon and looked to EDS and its partners in providing to us the expertise and the experience and skills we didn't have in government. We contributed to that as well; we have our certain expertise and experience and skills that we brought to the project as well.

In terms of the project planning that formed the basis for any reporting out on business cases and reporting to Management Board, that would have been a joint exercise and we would have been the ones who would have brought it forward. Obviously, the government ministry would have brought it forward to Management Board.

Mr Kormos: Sure, at Management Board, but then the auditor says that your numbers on page 74, where you show investment costs of \$312 million, in fact—am I correct?—should be \$359 million because there's \$47 million to be expended after the termination of the agreement, but they really should be considered part and parcel of the total investment?

Ms West: I'm just looking for the reference on page 74.

Mr Kormos: "However, since \$47 million in costs would be incurred after the work term end date ... the business case did not include all of the estimated costs." So estimated costs really, as of March 31, 2001, and they could change based on these negotiations, are really \$359 million, right?

Ms West: Yes, and I think what that's reflecting is the issue once again on the timing and the end date that's currently part of the contract that doesn't reflect the true case, so the work term—

Mr Kormos: OK, but as of almost a year ago today—well, 11 months ago to the day—we are up to \$359 million in terms of costs.

Ms West: These are projections we're talking about—

Mr Kormos: Yes, in terms of gross costs.

Ms West: —and even from this period of time there will have been some adjustments as part of our current plan.

Mr Kormos: It could be even higher.

Mr Freiman: And it could be lower.

Mr Kormos: It could be lower, of course.

Ms West: It could be lower. We are looking particularly at lessening that.

Mr Kormos: But I haven't seen that pattern.

Mr Freiman: Well, you asked, sir.

Mr Kormos: OK, your comment.

Mr Freiman: One of the ways we can improve the business case is not just to improve the benefits or the fees; it's also to reduce costs.

Mr Kormos: OK, but the costs have grown from—never mind the \$180 million estimated, but the \$200 million that was the red flag, that was the exit ramp. Is that what you call it?

Mr Freiman: The exit ramp I thought was the 1.1. The \$200 million would be a red flag.

Mr Kormos: A red flag. Those are the two warning signals and the exit opportunities for either of the parties unilaterally to leave, when expenditures went over \$200 million or when the benefit-cost ratio fell below 1.1 to 1.

Let's take this a little further, then, because in the benefits, the March 31, 2001, schedule that you folks provided to the auditor says benefits of \$238 million, which leaves us with a 0.76 to 1 cost-benefit ratio, but the auditor says on page 70 that that's an overestimate by \$57 million.

Mr Freiman: Can you direct us to that?

Mr Kormos: Yes. The second bulleted item, the second mini-paragraph on the page. I figured that's how the auditor got down to 0.5 to 1. I'm just assuming that. In his quote in that legal magazine, the lawyers' magazine, he got down to 0.5 to 1 in terms of cost-benefit. He says that even your benefits on these 11-month-old cost-benefits are overstated by \$57 million, which takes you down from the stated ratio of 0.76 to 1 probably to around 0.5 to 1. Fair enough.

All said and done, I don't know. I come from Welland, down in the Niagara region. It's a very small ethnic town. Down where I come from, if we had a partnership like this and my partner took me way past the red flag and directly toward the exit ramp in a deal, and when I'm into it for \$40 million and he's into it for \$130 million and the benefits keep going down and the costs keep going up, down in Niagara, in places like Welland, we'd say, "Thank goodness our lawyers had enough good sense to build in these red flags and these exit ramps." That's what we do down there. It might be the same way in Kingston.

The Chair: We do the same in Kingston.

Mr Kormos: What surprises me is that clearly EDS ain't taking that exit ramp, notwithstanding that its own red flag said, "Turn right because there's an exit ramp ahead"; the government ain't taking the exit ramp, the public partners, and I'm wondering why. I suspect that there has been an interest you're negotiating. That means you want to keep the partnership going in one way, shape or form. EDS and its investors are already out \$130 million, less the \$2 million they've got so far, so \$128 million. They stand to be out a whole lot more and yet they're not taking the exit ramp.

I find that very interesting. Do you understand what I'm saying, Chair? They're not at the stage where they're saying, "I'm going to cut our losses." But then I read, again at the top of page 70, the second bulleted item, which begins, "Inadequate research in the preparation of the March 1998 business case resulted in projected benefits," and we covered some of those dealing with the Ministry of the Solicitor General. I'm wondering if one of the issues here is that the reason to want to negotiate this is for fear that EDS may well litigate it if EDS were in a position where the partnership were terminated, because they would say things like, "We received some grossly inaccurate information from the Ministry of the Solicitor General. We didn't receive full disclosure. The data provided to us were neither accurate nor candid." So I'm just curious as to whether that's why the government would want to negotiate a continuation of the partnership rather than terminate it.

What do I tell folks down where I come from who believe in red flags and acknowledge them, and when they see an exit ramp after having a red flag waved, bam, they take that exit ramp? What do I tell those people that we people are doing in terms of this type of business deal up here in Toronto?

Mr Freiman: The first thing, I imagine you wouldn't want to speculate on what your partner's motives are.

Mr Kormos: I'd be loath to.

Mr Freiman: I would be loath to in public as well. I certainly would be loath to speculate about their legal theories, if they have any.

Mr Kormos: I'd be loath to.

Mr Freiman: I would probably ask myself what would happen if I took the exit ramp, and I might conclude that the exit ramp might have its fair share of nails and broken glass on it as well. I'd also conclude that the party that takes the exit ramp and gets over the broken glass, over the nails and back on to the road will not be any nearer to an integrated justice solution which has an independent justification. I would conclude that from the point of view of my partner, although I wouldn't want to speculate on why they wouldn't do it, they must see a benefit in completing this project as well.

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Mr Kormos: That's right. I'm sure they do, which means that they've got to see some revenues at the end of the tunnel. I know you've reassured us all during the course of the day, "Don't worry, they've got big exposure here and the prospect of not making a penny." Am

I being totally cynical to suspect that they are doing their negotiating best to ensure that there is some profit in this exercise for them at the end of the day?

Mr Freiman: I wouldn't want to speculate and I wouldn't want to get into the details of negotiations.

Mr Kormos: Of course not.

Mr Freiman: However, in the abstract, if I were thinking about any negotiation, I would assume that each party to the negotiation would have its goals and would try its darndest to realize the maximum possible goals in the negotiation; the other side would be vigilant about that also. The best negotiations come where the parties understand their mutual interests and find a way that is compatible with their mutual interests and it doesn't require one party to lose and the other party to win.

Mr Kormos: Exactly. We refer to it as principled.

Mr Freiman: It's principled but it's interest-based and it's not zero sum. To the extent that the parties have formed a good working relationship in the past, despite a number of difficult challenges, it is to be hoped that they each see the potential for principled, interest-based, win-win situations. While that possibility is alive, it would be irresponsible for either party to go driving down the exit ramp, over the broken glass, over the nails and on to a road that doesn't lead to greater justice.

Mr Kormos: You called it an exit ramp. Down where I come from we call it a parachute. When the plane's out of gas and it's diving, you don't bother to check who packed the parachute. Anyway, thank you, folks, very much. I appreciate it.

The Chair: Are you finished, Mr Kormos?

Mr Kormos: Yes, sir.

The Chair: Anyone else?

Mr Steve Gilchrist (Scarborough East): Ms West, I'll just make one quick follow-up or actually a clarification to your response to Mr Bryant and his last series of questions. I want to make sure I'm not mischaracterizing your answer.

I believe Mr Bryant asked you about the change from the agreed upon price of \$250,000 and how that became \$584,000. To be fair, I would like you to have an opportunity to clarify, because the auditor suggests that it was done without documentation to explain the need for any increase over the originally agreed upon price. What, if anything, was discovered as to the rationale for the increase from \$250,000 up to \$584,000?

Ms West: I guess what I was trying to do is acknowledge what the auditor has pointed out to us, that in terms of that contract it was not in compliance with government policies and procedures. I'm not speculating on the fact that the value received from the consultant who was involved in the contract wasn't actually worth the money that was paid, but it's obvious that we didn't do proper documentation and that there was non-compliance with the procedure requirement.

As part of our follow-up to that, we have put in place procedures to ensure that we have tighter scrutiny of our consulting contracts and assurance that this won't happen again.

Mr Gilchrist: I'm a little troubled here. Non-compliance with the procedures is one thing, and I certainly understand how that would have to be part and parcel of a finding like this. But it's also, apparently, in the absence of any documentation, not compliant with the contract. If the auditor has been able to accumulate all of the relevant documents and if there's an agreed upon price of \$250,000, how can a cheque for \$584,000 be issued? Somebody had to sit down and tell the paymaster to write the cheque. Somebody before that had to tell that somebody the rationale for how it got from \$250,000 to \$584,000, and to do that, presumably they had to refer to some tenet in the contract that allowed for that variance.

If the contract did not allow that variance, why are we not getting the \$334,000 difference back? If the contract did allow the variance, where does it say that? In the middle, if you have somebody who has misled the paymaster, what are we doing to have that person arrested and charged? Because obviously that is a fraud.

So please explain to me how the documentation inconsistencies can result in a cheque of \$584,000 being written without some very specific authorizations, presumably in writing.

Ms West: I think that's the point. I think what you see here is the auditor quite properly criticizing us for not ensuring that there was a formal amendment to the contract, for not ensuring that there was a documented explanation with respect to the increase above this ceiling price. I don't think there's any reason that has been identified for concern that in fact the work wasn't performed, the work wasn't performed at rates that were appropriate and that the sum that was paid wasn't properly owing. From a legal perspective—and again, I wouldn't want to speculate on what our legal position on this would be. But obviously there's an assumption that we would have been obliged to pay this, even if the documentation that ordinarily would be required and is prudent and will be in place in the future—that that wasn't in place wouldn't absolve us of our obligation to make this payment.

Mr Peters: If I may help out, there were two amendments signed, which added up to the \$511,000. What happened in these amendments is that the fee that the consulting firm could charge was increased to \$511,000, but there was no change in the deliverables, nor was there any documentation to support what was being done to increase the price. So the legal substance was in place.

Mr Gilchrist: Excuse me, for \$511,000. Your own notes say \$584,000.

Mr Peters: For \$511,000. Oh, for the difference for the—I see where you are getting to. There's \$73,000. I can't help you on that one.

Mr Gilchrist: Well, if you can't help us—and presumably you've seen all the documents. Ms West, my background was with Canadian Tire, and I can't begin to count the number of thousands of cars that came into our garage. In every case, the customer and the person on the service desk arrived at a contract as to the work to be performed. If having come in for a brake job, when you came in to pick up your car we said, "Oh, by the way, on

a whim, but it's at the same hourly rate, we have also changed your speedometer cable," clearly you would have had no obligation to pay for that. It wasn't part of the contract. Over and above any amendments, which in and of themselves are troublesome if we didn't get anything out of it—and I think a good lawyer would tell you there has to be some kind of benefit accruing. So it raises certain question—

Interjections.

Mr Gilchrist: Either one of the lawyers on the other side. Those are troublesome changes enough, if the government and the taxpayers didn't get any benefit for the doubling in price. But what I find particularly odious is that even if the ministry's stated position is that we had an agreement to go up to \$511,000, somebody cut a cheque for \$584,000. Where is the written authorization for the \$73,000 difference? And if there isn't one, why don't we get the money back?

Ms West: As I said before, we accept the criticism from the auditor with respect to this, and I think our effort is to ensure that we don't find ourselves in this situation in the future. With respect to this specific instance, we followed up. We would have taken any action that would have been our entitlement with respect to any collection on this and otherwise, again, the effort should be to ensure that it doesn't happen in the future.

Mr Gilchrist: With the greatest of respect, you can't just come before us and say, "We're going to do better in the future and we've looked real hard at this." Either there was a legal basis for paying \$584,000 or there wasn't. That's the simple point to be made here. And if there wasn't, then somebody can't get the money from the government, it's as simple as that. They have no legal claim on \$584,000 unless there is a document signed by both parties that says they have a legal claim on that. If their legal claim is on \$511,000—this is not all that complicated—somebody writes back and says, "Sorry, in this case the auditor has revealed there was an error in bookkeeping; we expect you to write the \$73,000 back." If that party, in response to that letter, says, "Oh, no, Mr So-and-so or Ms So-and-so in your ministry has signed a document authorizing the \$73,000," I think it is your right as the deputy to have that documentation and then to follow up. In the absence of that proof, though, this is an open-and-shut case. The taxpayer should have that \$73,000 back.

I appreciate your comments, but in the absence of that level of diligence, and that kind of response, I guess my next questions will have to be to the minister himself.

Mr Maves: Do you have any timelines for wrap-up of the renegotiation of the contract?

Mr Freiman: We discussed that to some extent. It's not a good idea to set artificial deadlines. As we've discussed a number of times today, the work term ends in 2002. That probably sets an outside potential timeline for getting this thing readjusted. But we're not trying to impose artificial deadlines or make promises we can't keep.

Mr Maves: Who are the renegotiating team for the government?

Mr Freiman: I have the descriptions—I'm so used to discussing them by name, and I don't think it's appropriate. We've retained a negotiating team of four highly expert members who report directly to deputies on a weekly basis. If you give me one minute, I'll get the accurate descriptions.

It includes the executive lead for the integrated justice project, who is a person with many years of experience and expertise in managing large technology initiatives. It includes an assistant deputy minister, who represents the ministry's requirements in any negotiated agreement. We've supplemented those two individuals with people with particular talents and expertise: a senior consultant who is one of the most experienced in Canada in developing alternative service delivery models and putting together related business cases and deals; and finally a very senior private sector counsel, at government rates, who is one of the most experienced in Canada in representing governments in negotiating private-public partnerships. That's our four-person negotiating team and, as I say, they report on a weekly basis directly to the three deputy ministers you see here, plus the corporate information officer for the government.

Mr Maves: If there was a separation between the government and the consortium, I assume we own everything that's been developed to date. They can't walk away with any of the technology, any of the systems they've already developed and field tested and so on. We own that.

Ms West: The systems that are in place—we own them, if you will. We have entitlement to them, and we will continue to have responsibility for them into the future as well.

Mr Maves: How about those that are being field tested now? The same thing?

Ms West: Yes, they would be under our ownership and control.

Mr Maves: Thank you, Chair.

The Chair: Anyone else?

Thank you very much for your attendance here this morning and afternoon. We appreciate it. And thanks to all the people who came with you as well.

We stand adjourned until 10 o'clock tomorrow morning.

The committee adjourned at 1503.

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PROVINCIAL AUDITOR
MINISTRY OF COMMUNITY
AND SOCIAL SERVICES

Consideration of section 3.05, violence against women program.

The Chair (Mr John Gerretsen): I'd like to call to order the standing committee on public accounts meeting today, dealing with section 3.05 of the 2001 Annual Report of the Provincial Auditor, violence against women program.

Good morning. We look forward to your presentation and, following that, there may be some questions from the various caucuses. So go ahead, sir. If you could identify yourself as you're speaking, it will make it easier for Hansard to keep track as to who is saying what.

Mr John Fleming: My name is John Fleming. I'm the Deputy Minister of Community and Social Services and the deputy minister responsible for children.

I'd like to start off first this morning with a statement of belief, and that is simply that my minister, the staff at my ministry and I all believe strongly in the ministry's violence against women program and the work our funded agencies do to support women who have been or may be in danger of being abused. That statement of belief is important to us. This program is important to us. So I'm pleased this morning to have this opportunity to discuss the Provincial Auditor's report about the violence against women program.

At the table with me this morning is Andrea Maurice, immediately to my left. Andrea is the assistant deputy minister of the community and developmental services division of the ministry. Next to her is Marilyn Renwick, the regional director for our ministry for the Toronto region.

We can never forget that our collective first responsibility in our violence against women, or VAW, program is to protect women from abuse. The tragic death of Gillian Hadley should never have happened. Ministries are carefully reviewing the jury's recommendations following that tragic death, with the shared goal of doing everything we can to prevent such tragedies in the future.

The solutions are complex and involve all of us, not just in our roles as public servants or politicians but in

our roles as members of our community, as parents, friends and neighbours.

This year, the Ontario government is spending more than \$145 million on programs and services delivered in a coordinated way through nine different ministries to prevent and address violence against women and their children. These services include domestic violence courts, extra legal aid funding, rape crisis centres, hospital-based sexual assault treatment centres, cultural interpreters and public education.

Of the \$145 million being spent by Ontario this year, our ministry is responsible for approximately \$86 million. Funding for our VAW programs includes, first, \$55 million for 101 violence against women shelters; second, \$21 million for over 100 counselling programs; third, \$5 million for a new transitional support program for abused women which provides practical help to women such as helping them find housing; and finally, \$5 million for a new intervention program for child witnesses of domestic violence, which helps those children understand that the violence is not their fault.

The majority of our violence against women funds, a total of \$55 million this year, goes toward funding approximately 1,700 beds in the 101 shelters throughout Ontario I mentioned a moment ago. These shelters serve about 15,000 women and 13,000 children each year and are run by non-profit corporations, with volunteer boards, paid staff and volunteer staff. The ministry does not manage the individual agencies but it is accountable for the effective use of public funds by these agencies to provide quality services. No doubt we'll discuss that further today.

The ministry has improved the way in which shelters are funded. In January 1998, we replaced per diem funding, the more traditional approach, which was previously cost-shared with municipal governments, with block funding provided entirely by the province of Ontario. Block funding also provides more stability since it is not dependent on individual shelter occupancy rates and helps agencies to plan services and manage their resources better. It is very important to remember that these shelters are community-based and, as such, may also receive funding and services in kind from other sources, including the private sector, foundations and fundraising activities, as well as, on occasion, other levels of government.

Just last week, I had an opportunity, along with my minister, to be part of a public event announcing a new

women's shelter in Milton. The ministry provided \$1.5 million in capital funding to Halton Women's Place for the replacement and expansion of its existing aging shelter. The board of directors secured additional funding and donations, including a very community-minded home builder, together with several of that home builder's major suppliers, who offered to build the home within the agency's budget.

Members of the committee, if you were there, you would have witnessed how proud all of those sponsors were. This was their community and they were making a significant contribution to help keep women and their children safe. The president of that very major home building firm said in his remarks to the event, "We don't really believe that in our business we're here to build houses; we believe we're playing a role in building communities." That particular corporation feels that shelters for violence against women are an important part of the community, therefore their willingness to come forward and put their dollars and their time to work supporting this program.

The province really encourages partnerships between the public and private sectors because we all have a responsibility to address this serious issue. But I am pleased to tell you that ministry funding for violence-against-women services has been steadily increasing since 1997, growing from almost \$63 million to \$86 million this year. New resources announced in the 2001 budget are being used to increase the number of beds available to women and children to ensure that women in crisis can receive emergency shelter when and where they need it. Increased funding is also being used to increase counselling and support services to abused women and their children.

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Some of these new resources have been used to strengthen the VAW system in Ontario by committing, first, \$26 million over four years to add 300 new shelter beds and to refurbish a further 136 beds in existing shelters; second, up to \$9 million annually for counselling and other supports for those new beds; and third, \$4.5 million over four years for enhanced crisis telephone and referral services for assaulted women.

As committee members are no doubt aware, the Provincial Auditor reviewed the violence against women program in his 1994 report. We have worked hard since then to improve accountability and to ensure agencies are meeting the service outcomes they are expected to meet.

To ensure quality services are provided with public funds, the ministry implemented the governance and accountability framework. This framework provides clearer accountability for the use of public funds and improved business practices for both the ministry and our service provider partners.

The ministry is working with agencies to ensure that the framework has been incorporated into their regular business cycle. The business cycle includes the following steps.

Each fiscal year, ministry staff negotiate service contracts with agencies outlining our service expectations

and the funding to be provided. The service contract describes the ministry-funded services that are expected to be delivered over the coming year. The service contract also reflects the basic requirements of agency accountability regarding setting of expectations, monitoring and reporting, and corrective action wherever that's necessary.

By signing the service contract, the board of directors for the agency commits to achieving the service delivery targets.

Throughout the year, ministry program supervisors maintain close contact with agencies, assisting them in resolving problems, attending meetings as needed and informing them of policy and guideline changes.

Each quarter, agencies have to demonstrate that the transfer payments they received were used to achieve the desired results. At the end of the year, the ministry compares reported results to established expectations. Working with the agency the ministry seeks to explain and justify any and all variances or determines actions that are needed to address discrepancies.

At year-end, agencies then submit reports and an annual performance expenditure reconciliation—known as an APER—report to the ministry. Ministry staff reconcile provincial funding with actual financial and service data and identify any recoverable subsidy or overpayment.

I am very proud of a number of innovative actions my ministry has taken to improve accountability and service to abused women and their children. Let me give you some examples.

First, a performance management system has been set up to collect information about the benefits to clients achieved by VAW agencies. That goes to the whole issue of outcomes and expectations.

Second, service coordination between VAW agencies and children's aid societies is improving through a joint training initiative. We are developing a protocol for the most effective ways that children's aid societies and VAW agencies can work together in cases of violence against women when there are children involved.

Third, we are developing new tools to support agencies in meeting the requirements of the governance and accountability framework that I mentioned earlier. That accountability is very much important to us, but we recognize that some of these agencies, particularly the smaller ones, may need some assistance and support as we work through the process.

The proactive and innovative actions the ministry has taken do not mean the job is finished. We agree with the auditor that more needs to be done to monitor and assess services, and we will continue to work to improve our policies and our procedures. But we are pleased with the progress we've made.

Over the next year, the ministry plans to review and refine the service data that agencies report quarterly and annually to the ministry, with a view to promoting consistent reporting by agencies. We also plan to ensure that agencies submit explanations and action plans when

financial variances occur. We intend to continue to implement enhancements to the governance and accountability framework that I mentioned a moment ago, including a new requirement related to ensuring the capacity of an agency's board of directors. Again, sometimes smaller agencies, and perhaps even some of the larger ones, need some assistance with developing the capacity of individual board members and the board as a whole. Finally, we intend to work with partner ministries to refine the performance management system as a monitoring tool that provides meaningful outcome data.

An important issue raised by the auditor was the number of women being turned away from VAW shelters. The fact is that women and children who need emergency services receive them. It's a concern to us that not every woman can be accommodated in a VAW shelter in her home community on every occasion. It's important to note that during periods of higher demand, those women in need of emergency shelter services would be sent to a shelter in another part of the community, or perhaps outside the community, or may be given other emergency accommodation such as in a motel or hostel.

We agree that more needs to be done to ensure that all abused women get the support and services they need. That's precisely why the ministry recently announced that the government will spend that extra \$26 million to create 300 new beds and to refurbish 136 further beds in women's shelters across Ontario. When these beds are fully implemented, the government will be spending up to \$9 million annually for counselling and other supports for the women and children using these new beds.

The auditor also expressed concern about waiting times for counselling services. Counselling is one of the many important services we fund as part of our VAW program. In fact, more abused women seek counselling than they do shelter service. The ministry funds over 100 different counselling agencies that provide service to approximately 60,000 women and 12,000 children each year.

I want to be clear by saying again that women in crisis receive immediate service. The waiting times referred to in the auditor's report are for women seeking ongoing, longer-term counselling, not for women in immediate critical need.

In addition to the over 100 counselling agencies, the ministry is also funding a province-wide helpline that will start operating in April of this year. This toll-free crisis line will be available 24 hours a day, every day of the year, to help women get information and support and to be able to connect to available services such as counselling. The Ministry of Community and Social Services is also working with the francophone community to improve and expand crisis phone services for francophone women.

The auditor also reported a variance in provincial costs of residential care, which he found range from \$47 to \$658 per person per day of residential care. As I'm sure you'll appreciate, in a system with variable funding

partners and variable funding arrangements, the way you express costs and revenues can have a dramatic effect on the ranges. The auditor chose to look at it from one perspective, but there are others. The ministry has looked closely at this issue and is in the process of identifying information that will help interpret operating efficiencies and best practices that can be shared with agencies.

What's perhaps most pertinent, though, is the fact that the average daily provincial cost for residential care is about \$100 per person. To look at it another way, the median range, if you will, tells us that most shelters, over half of them, have rates in the \$75- to \$125-per-person-per-day range. There are several reasons for variances from one shelter to another. For example, some shelters raise substantial amounts of money on their own or have other funding sources such as the United Way or a municipality, while other shelters rely more heavily on MCSS funds.

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Another example is that occupancy rates affect the cost of a day of care. Only nine of the province's 98 shelters had costs that exceeded \$200 per person per day, and they are all in small, rural communities in the north. We know, particularly in the north, that shelters may have low occupancy rates and, therefore, higher costs per day for residential care, but that it remains essential, nonetheless, to provide these services. We don't believe that women in small, remote, rural northern communities should be denied service any more than a woman who is at risk in a major urban centre.

In the interests of time, I will stop here so we have time to respond to your questions. Once again, I'd like to acknowledge the important role the Provincial Auditor plays in ensuring that government is accountable and that public funds are used as effectively as possible. As I have outlined today, we have already taken a number of steps in response to the recommendations made by Mr Peters, and we will continue to work to improve and strengthen our violence against women program to ensure that it provides the best possible support to assaulted women and their children in this province.

Thank you for the opportunity to respond to the auditor's report and to appear before you today. We will be pleased to take questions from committee members.

The Chair: Thank you very much, Mr Fleming. We have approximately 22 minutes per caucus in the first round. Today, we start with the New Democratic caucus.

Ms Shelley Martel (Nickel Belt): Thank you, to the ministry staff for being here. Deputy, I want to focus on the way shelters are funded, because for me that was the most important point the auditor made. I listened to you say that we have improved the way in which shelters are funded and that you firmly believe that the block funding provides more stability to the agencies involved. Yet when I read the auditor's report, and I'm going to read it into the record, he says the following:

"The 1998 Coroner's Report on the Inquest into the Deaths of Arlene May and Randy Iles recommended that the ministry review its funding for shelters for abused

women and their children. In 1999, in response to the coroner's recommendation, the ministry indicated that assuming the municipal share of per diems and block funding shelters after January 1, 1998, was sufficient to address the recommendation. However, based on our work, it is clear that the ministry's current method of funding does not ensure appropriate and equitable funding for shelters that is linked to an assessed level of demand and to services provide in the respective communities."

So I think the auditor has a much different perspective than you do. I wonder if you'd like to comment on that.

Mr Fleming: I'd like to make a couple of comments and then I will ask Andrea to comment further. I think there are really two issues that are woven together. One of them is the approach to funding. We believe that the advantage of block funding is that there is an element of stability, an element of predictability, if you will, to the level of resource through the service contract process that each shelter has available to it. So if they have significant fluctuations in occupancy rate, they don't have unpredictable fluctuations in their income.

But I think the other piece that's woven into the answer to your question has to do with the overall level of resource made available. If there aren't sufficient beds, then there is a capacity problem in the system with being able to make shelters available to women when they need them. Obviously, that's of concern to the individual agencies.

I'll just ask if Andrea has anything she'd like to add to my comments.

Ms Andrea Maurice: I'd just reiterate the deputy's comment that, certainly, having the block funding does provide more stability. It has, we think, helped shelters to do better planning. But clearly, on this issue of need, it is a capacity issue and it is why the government this year announced the addition of 300 new shelter beds and refurbishment of the additional 136 beds. In making the allocations of new shelter beds, we certainly do monitor very closely occupancy rates across the province to see where the pressure points are, where the demands are. We look at the distribution of shelter beds and we certainly, in making the allocation of these new beds, made an attempt to respond to where the demand is greatest.

Ms Martel: If I might, it's not just a question of needing more beds, and the May-Iles recommendations made that clear. There was a definite need to review the funding structure for shelter beds, not only the numbers but the support for each of those beds in terms of counselling, adequate staffing etc. I go back to what the auditor said. While the ministry felt that its response to May-Iles was the block funding, the auditor doesn't believe that your block funding is responding either appropriately or equitably to the needs of the shelters.

Let me follow up. You haven't responded, at least in terms of the auditor's view, to a very important recommendation of May-Iles. I note that in the most recent recommendations from the coroner's jury into Gillian

Hadley, the government is called upon again to revise the funding formula in two recommendations. Number one says, "We recommend that an implementation committee be established," and names who should be part of that, to look into the deaths of Gillian Hadley and Ralph Hadley, the recommendations from the inquest into the deaths of Arlene May and Randy Iles etc. But more specifically, on page 38, "We recommend that the government of Ontario, through its various ministries but in particular the Ministry of Community and Social Services, ensure that all community-based women's anti-violence services, including shelters, are appropriately funded."

That's not just a capacity issue; that's an issue of operational support. So what is the government going to do now to respond to the most recent recommendations that have come from the Gillian Hadley inquest, specifically with respect to shelter funding and reviewing shelter funding?

Ms Maurice: We are, of course, looking very carefully at the recommendations and formulating a response to the recommendations.

In terms of funding to our counselling and shelter services, each year through our service contracting process we do sit down with our agencies and do negotiate with them their need and the services that they will provide to meet the need and allocate funds for those services. We set service targets with them.

We are certainly responsive to the auditor's recommendation, and in our response have said that we are undertaking a cost analysis of the funding of our services so that we can have a better understanding of the funding. I think it provides us with an opportunity then to be able to identify where there are operational efficiencies and where there are best practices. Our job is to make sure we make the best use of the funds that we have available to us and direct them to where the need is, and we do that very much in partnership with our agencies.

Mr Fleming: I wonder if it might be helpful to ask Marilyn just to talk about some of her experience in negotiating those individual service contracts. It might help you understand how we go at looking at the level of funding for each one.

1100

Ms Martel: No, because the issue for me is that there were some specific recommendations made from two coroners' juries: a review of the shelter funding in conjunction with a number of agencies, community-based hopefully, specifically with OAITH. I don't think a cost analysis, which you've just talked about, is exactly what the juries had in mind.

I'll give you one other reason why the ministry should be doing a full review of shelter funding with community-based agencies, and that's something the ministry admitted itself to the auditor in this review. If you go to page 112, at the bottom, it talks about core services. It says, "Prior to 1995, the ministry defined the core services to be provided by VAW shelters as: shelter and safety; crisis intervention, counselling and support to women and their children; administration; children's

support worker; emergency transportation; and crisis telephone services.” Those were the core services that shelters were to deliver.

Although the ministry is still committed to the provision of these core services, the ministry acknowledges that, due to funding constraints, some shelters may not be able to provide all of them any more. It goes on to say the ministry had no method in place to determine to what extent these services were or weren’t being provided. By your own admission, a number of shelters are not able to provide the core services that your ministry defines they should be providing.

That goes back to the need that’s already been clearly identified by two coroners’ inquests and, I think, now by the auditor: that the block funding is not an adequate response to the May-Iles recommendations, and that what is clearly needed is a full and thorough review, involving community partners, of shelter funding. That’s what I’m trying to get at. Is the ministry going to undertake such a review, and when?

Mr Fleming: The point I’m trying to make is that our approach to reviewing that has been through the service contracting process that we have with individual agencies rather than the system as an entirety, and why I thought it might be responsive to Ms Martel’s question if we were to present to you a little bit of the process that we go through with each one of the shelters; to talk about how we get to the service contract, and what funding flows from that, agency by agency, rather than looking at the system as an entirety.

Marilyn, could you do that please?

Ms Marilyn Renwick: Certainly. We’re a decentralized structure with nine regional offices. Within those regional offices are staff, program managers and program supervisors who interact with all the transfer payment service providers. In the violence against women prevention program, there is a lead program supervisor in each office, as well as other program supervisors who have responsibility for this program area on the operational side.

Certainly the move to block funding has made sure that shelters get funding from only one level of government and has reduced the administrative burden on those shelters. What a program supervisor does is establish the expectations from the agency and sets the service to be delivered, based on previous years’ service and also on predicted need. We all know that different parts of the province have different costs, in terms of operating shelters or any other program, as a matter of fact. In the north, transportation is a huge additional cost. In the south, the costs of housing, and sometimes staff costs, are higher. So that’s why we negotiate by regional office and by program.

When we’re negotiating around counselling services, the costs can look very different. One of those reasons is the difference in cost between group counselling and individual counselling. It might well also be the professional nature of the counselling versus peer counselling. Many programs use a peer counselling approach because

they believe strongly that other women who have experienced violence in the home are better able to counsel and work with the current clients.

After that process is done, the regional office sends a budget package to an agency. It comes back. It might come back with different figures than have been negotiated because the agency has realized that they need more money in one area than another. A service contract is developed and signed by a board of directors. It talks about funding levels and service expectations. During the year there is monitoring of the contract through quarterly reports and other mechanisms. It’s an ongoing iterative relationship throughout the year between the program supervisor, often the program manager, the program staff and board of directors. At the end of the year, this service contract and the quarterly reports are reviewed. The APER is sent in by the agency. It talks about what the financial expenditures are related to the level of service. If there is surplus money at the end of the fiscal year, those dollars are recovered.

When we monitor throughout the year, we do take corrective action. If reports aren’t being sent in, we will deal with that issue with the board of directors. If the issue is lower or higher use of service than we expected, we’ll talk to the agency about what that is. Often we know what that is: there’s been a leak in the roof and they’ve had to close a few beds, something like that. So we do take corrective action when these things aren’t followed.

I would say that we do need to improve our monitoring. We’re getting better and better at it every year. Our staff are more trained than they were last year and the year before, and our APER reconciliation is more up to date than it was, but we can always improve and we’re doing that, often as a response to the auditor’s reports.

Ms Martel: Thank you for the explanation, but let me go back to what the auditor said, because despite everything you’ve just told us, it was the auditor—not us, the auditor—who said the following: “Based on our work, it is clear that the ministry’s current method of funding does not ensure appropriate and equitable funding for shelters that is linked to an assessed level of demand and to services provided in the respective communities.” So you can give me the whole explanation, but I’m telling you that he has said this does not respond to needs, nor does it respond to two coroners’ juries’ recommendations. I don’t think the ministry could stand here today and tell me that the move to block funding has ensured that all shelters can deliver core services, because you told the auditor yourself that you can’t ensure that any more because of funding cuts.

Instead of going back to the service contracts—which we know about and which the auditor has already told us are not working to ensure that there is adequate funding for shelters so that services can be met—what are you going to do to realistically and fully respond, not only to the auditor’s concerns but to the two coroners’ juries’ recommendations about a full review of funding for

shelters? What are you going to do to respond to that directly?

Mr Fleming: I don't know what I can say further to what I have already. We believe quite strongly that the process we have in place as we've described at some length to you is increasingly responsive to need.

The Chair: The auditor has a question, if you don't mind, Ms Martel.

Mr Erik Peters: When we raised this particular point, Chair, the ministry informed in their own response—I'm reading from page 118, and you may want to take a look at that.

Interjection: I did look at that.

Mr Peters: You indicated that "a sectoral framework that outlines basic requirements for transfer-payment agencies will be finalized and distributed to ministry regional offices and transfer-payment agencies in the spring of 2002." I'm wondering if, to help the committee out in answering the question, you could relate where that stands.

Ms Martel: If I might, no, Erik, because I'm referring specifically to shelter funding. Your audit was concerned about a number of accountability measures around reconciliation etc. That's not what I'm getting at.

Mr Peters: OK, fair enough.

The Chair: We can deal with that later on, then.

Ms Martel: I'm specifically asking about shelter funding.

Mr Peters: That's fair enough.

Ms Martel: Can I deal with the graph, then, on page 110? Deputy, you told this committee that beginning in 1997, the funding increased in this particular program from \$63 million to a current level of \$86 million. I would like to know, in terms of the shift in funding, particularly from 1997-98 and 1998-99, how much of that is the government assuming 100% of shelter costs because of local services realignment? Has any of that changed?

Mr Fleming: I'm sorry. I'm not following your question precisely.

1110

Ms Martel: You show quite a significant increase between 1997-98 and 1998-99. You've also told us there's been an increase from \$63 million to \$86 million from 1997 to now. What I'm wondering is, how much of that difference, if any, is the difference of the ministry assuming 100%?

Mr Fleming: So you're asking, is it 80% or 100%?

Ms Martel: And what's the overall value of that?

Ms Maurice: When the ministry assumed responsibility for shelter funding, the ministry took on an extra \$3 million, which accounted for the municipalities' share. So that figure is in the increase. Certainly the increase is in fact far more substantial from 1996-97 to where we are today, which is \$86 million. But it is \$3 million.

Mr Fleming: So of the total increase from 1997 on, Andrea, \$3 million is the amount we absorbed from the municipal governments and everything beyond that was increased funding from the province.

Ms Maurice: Correct.

Ms Martel: OK. What I'd like to know is, was any of the balance of the \$30 million also allocated to shelters, or is the bulk of it to counselling and services that don't provide shelters? Can you break that down for us?

Ms Maurice: The balance of the \$30 million? Five million dollars was added in 2000-01 for the transitional counselling program; \$5 million was added for the early intervention for child witness program. So that's \$10 million into counselling. Of course, the—

Ms Martel: Can I stop you there for a moment? Are those run in shelters as well or in the agencies?

Ms Maurice: Both.

Ms Martel: OK.

Ms Maurice: Of course, the new shelter funding that was announced in the recent budget in terms of the operating dollars, which will grow to \$9 million, includes counselling funding that would be provided to the women in those shelters.

Ms Martel: None of that would appear, I assume, in the budget that's before us, in the graph that's before us. Those allocations were made in the fiscal year after the auditor's 2000-01 report?

Ms Maurice: I think that's correct.

Ms Martel: OK. Can you give us a breakdown? The auditor did this in his report. He broke down the two: the shelter costs on their own and then the costs to the 100 or so community-based agencies that don't offer shelters but offer counselling etc. Through the period that appears in the graph, could you give us a breakdown between what of that increase went to shelters and what went to the other agencies? You've told us that \$3 million would have for sure, because that would have been the municipal share that you assumed. Was there anything above the \$3 million?

Ms Maurice: I don't have those figures before me. I'm sure the ministry could get those figures for you.

Ms Martel: If you could give us a breakdown—what I would like to know is if through that whole period, with the increase in the budget, there was any increase in shelter beds or staff at shelters. You talked about increased funding. I'm wondering what was provided with that, specifically with respect to shelters.

Ms Maurice: We'd be happy to find the information for you.

Ms Martel: OK. I wanted to ask about your surveys, because the auditor drew from your surveys to highlight the waiting lists at shelters and the waiting lists for counselling services. I noted that the surveys were done in the fall of 2000, so I have some questions about that. Was this survey an initiative through all the nine regions of Community and Social Services?

Ms Maurice: Yes, it was.

Ms Martel: Can I ask what prompted it?

Ms Maurice: I don't know the answer to that question. I'm sorry.

Ms Martel: I have a couple of questions about this. Was it a survey sent to shelters and to agencies delivering counselling services that don't have shelters?

Ms Maurice: Yes, to counselling and to shelters.

Ms Martel: Was it sent to all the transfer payment agencies in this regard?

Ms Maurice: I'd like to invite Barbara Kane, who is a policy adviser at the ministry.

Ms Barbara Kane: My understanding is that the survey was done with our regional offices in preparation for the expansion of beds.

Ms Martel: What did the survey ask? Can we get a copy of it?

Ms Kane: I don't have a copy here, but I think we can get you a copy.

Ms Martel: Can you give us some general questions? I'm assuming that waiting lists and counselling were, because the auditor identified those. Was the nature of it to ask the agencies themselves what their shortfalls in services were?

Ms Kane: It was looking at gaps in service and preparing for the allocation of new beds.

Ms Martel: So you think you'll be able to provide us with a blank, generic copy of that?

Ms Kane: I think we can do that.

Ms Martel: I would be interested in a number of other questions. Could you also provide us with the results? The auditor pulled two numbers for the purpose of the audit, which was to focus on one shelter that said they had 1,000 women who were turned away, and another statistic that counselling services, in some cases, were at waits of three to six months.

I would be interested in knowing what other questions were asked and what other responses were received. Particularly region by region, did you tally waiting lists for beds and then waiting lists for counselling? Were the results structured in that way?

The Chair: Could you answer, and then we'll go on to the next caucus.

Ms Kane: I don't think there was any final summary prepared for it. It was really a background document for the ministry to determine where the highest needs were in communities, more particularly for the beds. But we can certainly provide you with that information.

The Chair: We'll move to the government caucus.

Mr Bart Maves (Niagara Falls): I want to pick up on Ms Martel's first 10 minutes about funding for shelter services. But I want to approach it a little differently than Ms Martel did, because my reading of the auditor's report is a little bit different than Ms Martel's. Let me read a couple of things and do this on a bit of a timeline basis.

Prior to 1998, we had 80-20 shared funding with municipalities on shelters, and it was on a per diem basis. In a lot of areas it was determined that this was a poor way of funding. The auditor himself says, "The per diem method used prior to 1998 did not reflect a shelter's actual cost or funding needs; and total per diem funding provided in prior years did not always reflect actual shelter use." There were problems with the shared costs with municipalities, because municipalities all funded on a different basis. You didn't always know what that basis

was, so your data was difficult to obtain. It was pretty much a hodgepodge prior to 1998.

Your response to that and to inquests was to try to move to block funding. In my area, shelters have appreciated the move to block funding because of what you said: it provided some stability. And I think that in the sector itself, those managing facilities appreciate knowing what their budgets are going to be, if not from year to year, at least at the beginning of the year, although it may change over time.

So 1999-2000 was the first year that you had full block funding, correct?

Ms Maurice: Yes.

Mr Maves: Which I think is the right way to go. The auditor, however, looked at your first year of block funding and points out on page 119: "Two of the three regional offices we visited ... provided annual funding in block amounts to each of their shelters based on the highest amount of annual funding that each shelter received under the per diem method of funding from 1992 to 1996. The third regional office was of the view that this method of funding was not appropriate and instead funded its agencies for 1998 and later years based primarily on the amount of funding each shelter received in the 1996-97 fiscal year." He then says, "Neither of these funding methods is appropriate." So you've gone to block funding, which I'm OK with and which I think the sector likes better. The auditor doesn't actually come out and say which way he likes better. He does say there was a problem with per diem funding, and he also says there are problems with the way block funding is being handled.

According to the auditor, one of the problems is that your own regional offices are not doing block funding the same. So I would suggest now—and you can just hold on to this one—that you need to make sure that when your regional offices are doing block funding, they are approaching it from the same methodology. I think the auditor would appreciate it if that was the case.

1120

The auditor then provides several graphs, which show some of the difficulties in the first full year of block funding, on pages 120 and 121. He shows that the average cost per person served was between \$363 and \$5,981. He shows that the average annual cost per available bed was between \$15,000 and \$60,000. The average cost per person per day of residential care was \$47 to \$658. On the following page, for crisis support the average cost per person served ranged from \$19 to \$2,000. Crisis telephone counselling ranged from \$1 to \$135 per person served. General counselling ranged from \$69 to \$1,668. Sexual assault counselling ranged from \$38 to \$1,337 per person served.

Obviously you've moved into this area of block funding, which again I support. I think it's the right way to go, and I think the sector supports it. I see two problems. Number one, your regional offices should be on the same platform. They should be deciding how to disseminate this money in a similar fashion. Number two,

you're in your first, second or maybe now your third full year of block funding. Especially in your first full year, you're going to have discrepancies; I understand that. But if I look at these graphs in 2000-01 and 2001-02, please tell me that these discrepancies will be narrowed. I know they won't close, because, as you said, in some places in the province there's a minimum level of funding that a shelter will have to have in order to stay open. So I know they won't close completely; there's got to be a range. But if I'm to look at these graphs in 2000-01, 2001-02 and so on, should I not see this narrowing?

Now my question, after my large introduction: do we see this narrowing in these cases?

Mr Fleming: Your first question was about the regions and differences in the regions. Let me say to you that in a ministry where virtually all our programs are delivered through regional offices, we always have two issues that we try very hard to keep in balance. One of them is some kind of consistency in the ministry's overall accountability for how funds are used—that's on the one side. On the other side are the different needs and the different problems, region by region, across a province that's obviously very diverse. The challenge always is to manage the balance between those two so that our regional offices are best responding to the needs of local communities. There needs to be some flexibility to that, all within an overall level of consistency. In the early days of the introduction of a new approach to funding, there may have been greater variation among regions as we implemented this. I'll ask in a moment if Marilyn has any comments about where we find ourselves on that front in 2002.

The second part of your question was about the range of costs. I tried to address that in my opening remarks. Let me just comment on that a little more fully. When you look at the low-end costs, first of all you need to remember that what the auditor is looking at here is provincial funding going into program for units of service. I would remind you about what I spoke of earlier, which is the potential for other funding to have come into the program. So if the United Way had funded or the municipality had made a grant or there had been a fundraising endeavour, then that would be additional revenue which might potentially drive down the cost. Similarly, in some areas where the catchment area is much larger and the population smaller and therefore the occupancy levels are lower, the economies of scale have a significant impact.

The question is, will that range narrow? I think it's possible to some extent that it might, but there are some drivers that cause it to be that broad, which frankly I don't see changing, as I've just mentioned.

Mr Maves: Deputy, I would say they should narrow. I understand that there are other dollars being allocated, but in my view the auditor looked at provincial dollars and this is the allocation of provincial dollars per person for each of these services. So as you're moving toward greater accuracy of your block funding, these provincial numbers should narrow. I agree that they won't close,

because of the situation that it's a vast province and there are rural areas, northern areas and urban areas. I agree that it won't close and I agree that you're not going to have 100% occupancy in every shelter across the province. However, these should narrow as your model becomes more efficient.

I move to the auditor's recommendation here on this. The auditor's recommendation is not to blow up your block funding model, the auditor's recommendation is not to return to the per diem funding model; the auditor's recommendation is to "ensure that agency funding requests provide information that is sufficiently detailed and relevant to allow the ministry to make informed funding decisions; and critically assess all requests for funding and ensure that amounts approved are commensurate with the demand for services and the actual services provided."

What I'm reading into this is that the auditor is saying that indeed if those two steps are taken—and I would imagine you're doing this out of just plain due diligence, to make sure your funding is going to the right places—then indeed these should narrow. So I don't think he is saying, "Blow it up," I don't think he's saying, "Go back to per diem": I think he is saying you've got to continue to collect data and make sure that your block funding works appropriately. And to work appropriately, should these numbers not narrow? I'm getting a nod.

Mr Fleming: The other issue here, of course, is that as we gather better data, then we have a more accurate representation of units of service and the cost for each unit. As we've tried to describe to you this morning with our performance management system, we're trying to build better sources and better quality of data.

Mr Maves: Agreed, and that's a good thing. I think when you have that, you'll have a better ability to make sure that some of these discrepancies don't continue to exist. That was the funding piece that I actually wasn't going to start with, but I found the way my colleague across the way approached it was a little different from the way I was approaching it and I wanted to get that on the record.

More on a macro level, you also said the auditor started off in a discussion with us saying there was \$135 million spent for violence against women programs across ministries. Some data that was provided to him said that Comsoc was—we had the numbers here a minute ago.

Mr Fleming: Our portion of that is \$86 million.

Mr Maves: Right, \$86 million, and \$17 million from the AG and some from Sol Gen and some from health. You had said, I believe, in your comments that the funding is now, provincially, \$145 million. I believe I also heard you say that this year the government increased funding by \$5 million for the early intervention for child witness of abuse program and \$5 million for a transitional support program for abused women. That's \$5 million annually and it was flowed this year?

The Chair: Could you answer, please, so that Hansard can take it down.

Mr Maves: They're nodding yes. I'll interpret that for Hansard.

The Chair: Well, a nod is kind of difficult to record for Hansard.

1130

Mr Maves: I know. Go ahead.

Ms Maurice: That's correct, we did add in this fiscal year, this fall, \$5 million, annualized, for transitional support and an additional \$5 million for the early intervention for child witness program.

Mr Maves: Has all that money flowed? Is all that money in utilization right now?

Ms Maurice: Yes.

Mr Maves: Good, because quite often we get folks here who say this money has been put out and it hasn't been utilized. So that's good.

Ms Maurice: I think we have in the child witness program over 103, or approximately that number, of counselling groups that are in operation.

Mr Maves: I'll move to an area that I'll approach a little differently. The auditor said in the 1997 report that he wasn't satisfied there were enough standards and guidelines and expectations of service in place for each shelter, and I have queried to him, wouldn't a lot of that be within service contracts? When we enter into service contracts with each of these organizations, within those contracts they have a certain level of service and certain standards they've got to adhere to. The answer I got back was no, those service contracts aren't actually very detailed and don't provide that. So could you tell me again how we ensure quality within each facility?

Ms Maurice: I'll start off, and perhaps Marilyn would like to add to it. First of all, we certainly agree with the auditor's recommendation and comment that it's very important that the ministry communicate very clearly to our transfer payment agencies what our service expectations are. We do that through our budgeting and service planning contract process. We detail the service expectations, we detail service targets and the dollars that will be spent on those.

Another comment the auditor made was around eligibility for services and, again, we make it very clear to our agencies who is eligible for our VAW services.

I would like to go back to a comment the deputy made earlier in his remarks, and that is the importance and the accountability of the boards of directors of the violence against women agencies. They are indeed accountable for providing quality services and it's our job to work with them and monitor to ensure that they do that. They are accountable for determining what the staffing needs are in a shelter, our counselling agency, and what the staff qualifications ought to be in that agency. They are certainly accountable for ensuring the physical safety and security of the shelter and they are very responsible for ensuring that shelters communicate what services they provide. That is certainly a recommendation that came out for shelters in the Heikamp inquest, I believe. They are responsible for doing that kind of communication and making sure they coordinate their services with other agencies.

Our role certainly is to provide support to our agencies in doing that. We do that through our various accountability mechanisms. The deputy did mention that this year we have a new resource guide for boards of directors to help them in discharging their roles and responsibilities. We also are assisting communication between VAW agencies and children's aid societies to ensure that they understand their various roles and responsibilities through a training curriculum that we've implemented and a protocol process as well.

We set out very clear expectations in the service contract. We do expect the boards of directors of our agencies to set and be accountable for their own quality service standards.

Mr Maves: The auditor has pointed out several times—and I've introduced a bill, the Minister of Finance has said he's going to introduce a bill and this committee has endorsed that he be able to do value-for-money audits of transfer payment recipients. He still can't do that right now. As legislators, for the money that we flow and we give out to different boards and different transfer payment agencies, we want to make sure that money is being spent appropriately. We don't really have a great vehicle like we do with the auditor in other parts of government funding to be able to do that.

When he made the recommendation about standards, service directives, guidelines and so on back in 1994, the ministry had agreed with this recommendation and indicated it would establish clear service expectations, as you've said, and monitor their achievement. However in my questioning of them, they're not very satisfied that the service contracts are very detailed in this area on standards. He also said he's reviewed 10 of the service contracts and that they're somewhat generic, and he didn't feel the need to review any more.

Can this committee get a copy of one of your service contracts with names, dates and places blacked out so that we can have a look at those service contracts and get a feel of how comfortable we are that those service contracts are addressing some of these issues?

Ms Maurice: Yes.

Mr Maves: By the way, I want to say that I support the ministry's goal of not having ministry-wide standards and rules and regulations that have to apply to every single shelter because, as we keep hearing over and over again, Ontario is a big place and what's good in Toronto might not be good somewhere else. So I support these things being in service contracts; I'm just a little bit concerned when the auditor tells me he's unhappy with what's in the service contracts. That's why I'd like to take a look at it so that our committee might be able to recommend something that could be included in the future in those contracts.

Mr Fleming: If I could just make a general comment, I think it's worthwhile to point out to the committee that, overall, the Ministry of Community and Social Services has agreements with about 1,400 transfer payment agencies. The whole purpose behind our governance and accountability framework and process that we've tried to

put in place is not to spec every last detail about what we want those transfer payment agencies to provide, but rather to have a kind of partnership with them where it's clear what it is we want done and we have those expectations clearly set out in the agreement. But at the same time, as part of that governance and accountability process, we're taking advantage of the expertise and the local responsiveness they've got to develop useful and valid measures of how well those expectations are being met.

As all of you know, I'm sure, in some kinds of programming it's more straightforward to be able to determine success against measures. In a lot of cases in social programs, human service programs, it's not quite so black and white, not quite so clear-cut, not quite so easy to do. It's an evolving process for us to work within the ministry with our transfer payment partners across a whole range of programs, not just VAW programs, to develop those kinds of measures. We think we're making progress.

The Chair: We'll have to leave it at that, Mr Maves, and we'll now turn it over to the official opposition.

Mrs Marie Bountrogianni (Hamilton Mountain): I'd like to first, before I ask my questions, reiterate Ms Martel's concern about a real shelter funding review being done. The cost analysis, agency by agency or region by region, and the block funding may be part of that, but it certainly does not define a review in the way the inquest recommended.

My first question is about the counselling, maybe some clarification. Emergency counselling is offered immediately, from what the deputy said. What about the three-to-six-month wait for counselling? What are the issues that require counselling that can wait that long? I'm more concerned, at least at this point, about the children where it may not be obvious that emergency counselling is needed right away. Trauma is not obvious all the time and so my concern is a three-to-six-month waiting period for children. Are there ways, first of all, to track if that waiting list improves with the additional funds? Do you have a tracking mechanism? Do you have criteria that outline which children and women get funding, and when and how, different levels of professional counselling versus peer counselling? Can someone answer those questions?

1140

Ms Maurice: Perhaps I can start, and Marilyn might wish to add. In terms of the waits for counselling, when a woman comes, either alone or with her children, and is in a crisis situation, the first concern of the agency of course is to ensure the safety and security of the woman and her children. The waiting times which the auditor refers to, and which of course we're not happy with, are in reference to longer-term, ongoing counselling, the kind of counselling that would help a woman deal with the issues of establishing a new life, getting settled, getting her children settled. It may be therapy, and in fact those figures do include information from agencies that are providing a longer-term therapy. Unfortunately, there are waiting lists for those kinds of services.

The issue of children experiencing and witnessing violence was a concern and was a driving force for the ministry to introduce its new early intervention program, the \$5-million. We don't have data on waiting times at this point comparable to the time when that survey was done.

One of the things I would like to tell you about is our performance management system that we and a number of other ministries have introduced. It's a consumer's perspective on the service they're getting. It is a survey that's done in shelters, our counselling services and some of the counselling services of other ministries, like the sexual assault centres, where the women actually fill out a form and provide information on the service, evaluating the service. One of the things specifically we're asking them is how long they waited for service and what their perception was, how they viewed that: was it an acceptable or an unacceptable waiting time?

That information is just starting. I believe the survey is referred to in the auditor's report. We've just had our first year of collecting information. We're still working with our agencies to bring more of them on board. We do not have complete data yet, but we're hoping next year we'll have much better information that really will help us get at some of the things that you're referring to.

Mrs Bountrogianni: I realize this is evolving, but I would strongly recommend that you impress upon all the agencies the importance of gathering that data because, as the deputy mentioned, it's not only helping kids realize that it's not their fault, but the reasoning behind that of course is that they don't become abusers themselves of victims of abuse. You'll go a long way to preventing future abuse if we do this part right, so I encourage you to keep encouraging the agencies to give that data and then to give it to us, or to the public.

When will all of the newly announced 300 beds be put into place?

Ms Maurice: It's a four-year rollout. We have just over a hundred new beds targeted for this year.

Mrs Bountrogianni: I'm sorry, I can't hear you.

Ms Maurice: For this fiscal year, approximately a hundred of those beds and the remainder to roll out over the subsequent three years.

Mrs Bountrogianni: At that rate? At a hundred beds per year?

Ms Maurice: Where can I find that information, folks?

Mrs Bountrogianni: And this is engraved in stone? This won't change, regardless of what Minister Flaherty might say next week or the budget? This is going to happen no matter what, 300 beds? Deputy?

Mr Fleming: These are the decisions we have as of today.

Mrs Bountrogianni: Good answer.

Mr Fleming: I can't speak to future direction we might receive from the government.

Ms Maurice: It's 107 this fiscal year and the remainder by 2003 or 2004.

Mrs Bountrogianni: OK, thank you. Now, who is being consulted regarding the development of service quality standards? Are you consulting with the agencies themselves? Are you consulting with the women themselves?

Ms Maurice: In terms of getting back to the question about service quality standards, what we do with our agencies is work with them to set service expectations and service targets which are part of our service contracting process.

Mrs Bountrogianni: So this is done as part of the contract process?

Ms Maurice: Part of the contracting process. Now, one of the specific issues that we have been looking at is the issue of communication and coordination among different parts of the service sector and it's been a particular issue that was certainly raised in the Heikamp inquest, a particular issue between the child welfare sector and the violence against women sector. We have engaged in quite a fulsome consultative process that involves our VAW system as well as children's aid societies to initially develop a joint training curriculum. There was quite a significant amount of work and consultation that went into that. We're quite pleased that over 3,000 staff in the province have already been trained on that joint curriculum.

The other piece of work we're doing that we think will move us closer to better coordination of services in terms of a standard, if you like, is the work on the joint violence against women and children's aid society protocol, and this is really about how those agencies deal with one another. The way we've approached it, again, it's very consultative to develop generic protocol. We did a consultation in the fall. We're currently revising that protocol. We will be issuing the protocol this spring. The next stage is at the local level for individual children's aid societies and violence against women organizations to take that and turn them into local protocols. That's one example of how we're working together.

Mrs Bountrogianni: Thank you. One of the things that I observed in my touring of the facilities across the province is the disparity, particularly among the physical security. That was also mentioned in the report. I'll never forget one in Ottawa where I thought, "Here we have the capital of the country and this place is not secure," terrible conditions, as opposed to the one in my riding which is new and modern and very secure. I could see women feeling secure there and I could see only totally desperate women going to one of the ones in Ottawa. Is anything going to be done to address that disparity?

Ms Renwick: I think physical security is really important and vital in this area. We're refurbishing 136 beds around the province, so that gives us some opportunity as we support those beds to increase security. Certainly when we're building we're paying attention to that.

The board of directors, of course, is responsible and needs to do that assessment and then needs to come forward to the regional office and speak to us about that.

There are minor capital dollars often available that can be used to fix physical security needs. They could be doors, they could be alarm systems, those kinds of things. So there is often minor capital money available to do that and we take physical security requests and needs very seriously.

1150

Ms Maurice: Perhaps I could just add, since you raised the issue of Ottawa, that there are 40 new shelter beds going into Ottawa and part of the capital plans for those shelters is a good security system. That will also be the case, in fact, for the new shelter in Hamilton, the native women's shelter. I visited that shelter myself not too long ago and—

Mrs Bountrogianni: You see my point.

Ms Maurice: I see your point, yes. We're very pleased that there's going to be a new shelter there.

Mrs Bountrogianni: Excellent. With regard to the one in Ottawa, a good fence would have been a good start; that's how basic the needs were up there. You mentioned, and I'm glad to hear, that security is going to be addressed because that is first and foremost.

You mentioned a training curriculum for agencies. Does that include for the boards of directors as well? If we expect the boards of directors to be accountable, we need to provide the resources to train these members of the boards. Does that training include board members? I'm not sure that all of them are as trained as perhaps they could be. They mean well, they're wonderful, they're committed, but I don't know if the training is consistent or that the background knowledge, which would require more training, is consistent.

Ms Maurice: I agree with you that board training is key. The specific training initiative that we referred to is for staff so that they understand. Marilyn may want to address what we do in the way of board training.

Ms Renwick: We have added to the service contract a schedule that speaks to board capacity and we're asking boards to sign that back to us, so that causes them to have a review. We're also doing a manual for boards of directors to help them understand their role and responsibility. In my own region, board members did come to the CAS-VAW joint training because they were interested in terms of their own growth and learning, so in some places they were able to do that.

But we really are focusing on boards of directors. Our children's aid societies have a board manual that has been very successful. What we're doing is taking the core of that manual and using it amongst all programs in the province to increase board accountability and learning.

Mrs Bountrogianni: I think that's a good start, but if we are to hold these people accountable, I would hate to have a repeat of the CCACs and just take over because mistakes have been made when in fact they haven't had the training to prevent the mistakes. I'm thinking particularly of some rural areas and some northern areas. Thank you very much.

The Chair: You have no further questions at this stage?

Mrs Bountrogianni: No.

The Chair: OK, Ms Martel.

Ms Martel: I wanted to go back to the survey, if I might.

Interjections.

Ms Martel: Just so I'm clear, Mr Chair, are you going to just continue? Am I the only one left with questions?

The Chair: No, I don't believe so.

Ms Martel: OK, so how long do I have?

The Chair: We'll just start the next round and you'll take seven minutes and then we'll continue with you right after lunch.

Ms Martel: OK, thanks. I'd like to know if you can give us the exact number of surveys that went out, when you get a chance to look at it again.

Ms Kane: I'm sorry, Ms Martel. We'll have to get back to you on the details of the survey.

Ms Martel: OK. I'd like to know how many were sent out by the ministry and how many were returned. I gather the results were not made public.

Ms Kane: It was an internal exercise that the ministry did with our regional offices to just prepare us for the new monies that we were hoping to get for the new bed allocation.

Ms Martel: Is it possible that this committee could have a summary of the responses?

Ms Kane: I think we can do that.

Ms Martel: OK. One other question: you said this was done primarily to determine bed allocations with respect to the August announcement. What I'd like to know is, did the August announcement fully respond to the needs that were identified? That's why I'm interested in getting the responses.

Ms Kane: I think that we were able to address the priority areas and that we used the bed numbers to maximize our response, but we were not able to fully respond to all of the identified priorities of every shelter or every community.

Ms Martel: Did the ministry put a monetary value on the needs as they came in? I appreciate it would be difficult on the counselling side, but the shelter bed side might be one that the ministry could calculate, both in terms of new beds required or refurbished beds. Did it work that way?

Mr Fleming: I don't think we know the answer to that question, either. We'll have to go back and see what data we have.

Ms Martel: Clearly, my interest is in seeing what the needs are that may still be out there that remain unmet even with the announcement. That's where I'm heading with this one.

Mr Fleming: I understand where you're going.

Ms Martel: I wanted to ask some questions as well about the announcement in September with respect to the beds. I have a couple of questions. You announced \$26 million for 300 new beds and to refurbish 136. Is that \$26 million strictly capital funding?

Ms Maurice: Yes, it is.

Ms Martel: So in that regard, the \$3 million to \$9 million that will be allocated over four years should be considered operating funding to support those beds.

Ms Maurice: To support the new beds. Of course, the refurbished beds are existing beds and there are operating dollars currently already attached to them. So it's for the 300 beds that will be created.

Ms Martel: In that regard, you gave us a figure earlier, Deputy, that the average daily provincial cost for a bed would be \$100 per person per day. Correct?

Mr Fleming: Correct.

Ms Martel: So over 365 days, on average you'd be spending \$36,500 per bed to support that bed as strictly an operating cost. Would that be correct?

Mr Fleming: I think the service contract—Marilyn can answer that—would take into account the average occupancy levels, which would obviously have a bearing on the overall dollar operating allocation to each shelter.

Ms Martel: I'm not sure I clearly understand that, but let me give you what I'm looking at. If I look at 300 new beds and I use the figure that you gave me, which is \$100 per day, I would have an operating cost to support those beds of \$10.95 million. But your allocation to support those beds is \$9 million at the end of year 4. So I look at that and say there's a shortfall of almost \$2 million of operating funding needed to support those 300 new beds. Is that a realistic assumption for me to make?

Ms Maurice: Maybe I can add something, Deputy. That, of course, is the average, Ms Martel. Some of the 300 new beds—and Barbara probably has the number—are being added to existing shelters, so their operational costs, because there's an infrastructure in place, are going to be less than the costs of a new shelter.

Ms Martel: OK, but I'm working with the \$100 that you gave us, which I would assume would be an average per bed, regardless of if you were moving a new bed into an existing shelter. I'm assuming that \$100 represents a per-bed cost, new or existing bed. Am I right to use that figure or wrong?

Ms Kane: The figure that we used to calculate the operating costs was \$3,000 per bed per year, and that figure is the current provincial cost per bed in the last fiscal year.

Mr Fleming: She said \$3,000, but she meant \$30,000.

Ms Kane: I'm sorry—\$30,000. No, we'd be pretty cheap.

Ms Martel: Let me work with that figure. That's how you arrived at the \$9 million, then. That gives me two different sets of numbers. I appreciate that you say you worked with \$30,000. The deputy talked about \$100,000 generally. That's a gap of about \$6,500 per year per bed.

Ms Kane: Can I explain that?

Ms Martel: Sure.

Ms Kane: Because it is based on occupancy and the average provincial occupancy is about 82%, which, when you take days of care times 82%, comes out to about \$30,000. So if you only are occupied 82% of the time, then your average cost per day at \$100 works out to about \$30,000 a year.

Ms Martel: Is it realistic to use that in areas where you have overcapacity? I don't know the shelters that were listed where they were continually turning people away. If you work it that way, aren't you going to run into a problem of having shelters in areas where there is an ongoing and increasing need still not receiving enough operating dollars from your ministry to fund the new beds?

Ms Kane: We worked with that \$30,000 annually per bed as a starting point for the discussions with the shelters. Our regional offices were involved in this, and it was based on what they thought they needed to operate within the limitations of the \$9 million. So we did come up with figures. Some of them were slightly cheaper, as Andrea says, because they were in existing shelters where maybe the average operating cost is about \$25,000 per bed, and so that's what we negotiated with them.

The Chair: Can we leave it at that? It's 12 o'clock now. We'll continue with this at 1 o'clock. We stand recessed until 1 o'clock.

The committee recessed from 1201 to 1301.

The Chair: I'd like to call the committee back to order. We'll continue with Ms Martel.

Ms Martel: Thank you, Mr Chair. Before I continue with questions, I thought I would read into the record something I consider to be important. Mr Maves made two references to the support of the shelter sector for the current shelter funding. I thought it was important that I read into the record the submission that was made by OAITH, which is the Ontario Association for Interval and Transition Houses, an advocacy group that represents the majority of women's shelters in the province. This is a submission they made to the Gillian Hadley inquiry, and it was just done in February 2002.

Their recommendation 16 reads: "That the Ministry of Community and Social Services of the province of Ontario immediately conduct a review of actual costs of providing emergency shelter services for women and children in Ontario and develop mechanisms and initiatives to increase the funding of women's shelters in Ontario to meet the real program needs of women and children who use women's shelter services."

I think that most accurately reflects the perspective of this sector, and it's a most recent perspective as well, which is why I continue to advocate for a real review of the funding mechanism.

I want to go back to the issue of the announcement of the money for beds. I want to follow up with a couple of questions. We left off with my trying to determine if the \$9 million was going to provide adequate operational support for the 300 new beds. I think I'm beginning to understand the rationale that was used for that. Correct me if I'm wrong: the last part of the discussion was that there had been some discussions with the shelters to determine their operational needs, which led to that allocation. Can I be clear that that's what was said, or did I misunderstand that comment?

Mr Fleming: If you're referring to the survey—

Ms Martel: No. Perhaps I misunderstood, but I thought what had been said was that there had been some discussion with the agencies regarding their real operational costs, which supported the \$9-million decision. I want to be clear if I understood that correctly.

Ms Kane: No. My reference was to their negotiation after the announcement.

Ms Martel: OK.

Ms Kane: And that was in determining what their operating cost per bed would be, that the ministry would pay out of the \$9 million. The \$9 million had been established by that point.

Ms Martel: Did you negotiate with all of those that have been listed as receiving new beds?

Ms Kane: Yes.

Ms Martel: Is it clear, then, that those who are to receive new beds agree that overall the \$9 million will meet the operational needs, or is there a shortfall?

Ms Kane: I would say that we have been able to give more money to some of the new beds. All of the new beds, I understand, will receive about \$34,000 instead of the \$30,000. It's in the refurbishing of the beds that we were able to have some cost savings to offset that additional \$4,000 a bed.

Ms Martel: I apologize, but I thought the \$9 million was only for the new beds.

Ms Kane: And the 136 refurbished beds.

Ms Martel: Your press release from August 7 just refers to new beds.

Ms Kane: Oh, I'm sorry. I'm confused. You are right: the \$9 million does refer to the 300 new beds. I apologize.

Ms Martel: So what I'm confused about now, and I apologize, is that you made reference to savings from refurbished beds. I'm not sure what the link is, one to the other.

Ms Kane: I'm going to call up my colleague Susan Crocker, our VAW capital analyst, who will be able to give you some additional information on the allocations.

Ms Susan Crocker: When we went back and looked at the actual budgets the agencies were providing, we found that where we were putting new beds, where a building or agency existed and had existing infrastructure, it was actually costing us less per bed than it was for the new beds where there was no existing administrative infrastructure. So we were able to re-allocate to brand new shelters with no infrastructure some of the money we were saving from where we were just adding beds.

Ms Martel: So the savings actually came not from refurbishment but from new beds in existing shelters. Your cost per bed in entirely new shelters is higher, but it is being covered from the cost saving?

Ms Crocker: Yes. The \$9 million was the figure we were working with, and we were working to balance to that figure. But we were able to achieve some cost savings because of the different types of new beds.

Ms Martel: So you feel confident that the \$9 million will address those operating needs at those 300 new beds,

that every bed will be in a position to be in place and you won't have some shelters not being able to proceed because the operating funding does not support those beds?

Ms Crocker: That is my understanding.

Ms Martel: OK. Another question I had was—the capital money is flowing from SuperBuild—is there a local share for capital costs for each shelter?

Ms Maurice: Sorry, I don't understand the question.

Ms Martel: SuperBuild usually requires a local share over and above the government financing. Is this capital financing 100% for these shelters, so no local fundraising will have to go on to build these new beds?

Ms Crocker: There may be in some cases.

Mr Fleming: A good example of that is the situation I described in my opening remarks, where the shelter in Milton found a partner and was able to accomplish all of its goals with some private fundraising money as well.

Ms Maurice: If I could add as well, what we knew from our agencies was that in some instances they came forward and said they had some funding from CMHC, and some of them had funding from the federal supporting communities partnership initiative program that they could use. So they identified to the ministry what kind of capital enhancement they would need in order to either add a certain number of beds or create a new shelter. Certainly, as part of the SuperBuild funding, we did encourage our shelters to look for other sources of funding as well, to look for those partnerships.

Ms Martel: But I want to be clear that it is not a requirement for every shelter to provide 10%, 5%, 3% etc?

Ms Maurice: No.

Ms Martel: Where they had that, they provided that to you and there was an adjustment in their capital funding?

Ms Maurice: Or we were aware of it in the planning process itself.

Ms Martel: The \$3 million that was allocated for operating in this fiscal year, were those dollars spent?

Ms Maurice: We anticipate that we will spend approximately half of those dollars. The reason we're not likely to spend the full \$3 million this year is that there were some delays in start-ups, opening up the new beds. Because a good portion of the operating dollars goes toward salaries, it's a shorter fiscal year than we had anticipated.

Ms Martel: So about \$1.5 million will go out the door this year?

Ms Maurice: I believe it's \$1.4 million.

Ms Martel: I think those are the questions I have on that allocation. Thank you very much.

I want to return to a point in the auditor's report that involved minimum staffing levels. The auditor noted that in the 1995-96 fiscal year the ministry eliminated the standard of a minimum staff-to-bed ratio. Can I ask what the rationale was for that, and what were the implications of that? I'm particularly thinking of any funding or financial implications. Was that involved?

Ms Maurice: Perhaps I can address that one. In fact, the staff level ratio was developed, in a sense, as a kind of guide or best practice. Rather than eliminate it, it wasn't implemented. It represented, perhaps, an ideal place where we'd want to be if there was sufficient funding in the system. So it wasn't a matter of taking it away and, therefore, affecting agencies. It wasn't implemented.

1310

Ms Martel: So there were no negative funding implications when that occurred. That's what I want to be clear on.

The last thing I wanted to touch on had to do with a media report that appeared today in the Toronto Star: "Domestic Violence Review Sought." I'm not sure if you had an opportunity to see it. It was handed out to us; I don't mean to blindside you. I'll read the comments into the record so you'll know I'm not ad libbing. It states: "Ontario's coroner's office wants to be able to track how well inquest recommendations into domestic violence deaths like those of Gillian and Ralph Hadley are being implemented."

Two points: the coroner's office made the point that they had requested such funds after the May-Iles inquest, but they were denied. I'm going to assume, because it was the coroner's office, it would have been a denial by the Solicitor General's ministry and not Community and Social Services. Would that be correct?

Mr Fleming: Just glancing quickly at the article, it looks as though the Office of the Chief Coroner is asking for money to track coroners' inquests. It's been a routine for a while now—I can't say how long—for ministries or teams of ministries to comment on inquest recommendations and for there to be progress reports at the annual point on those. I take it, from a quick glance at a few of the words here, that the coroner is looking for some resources to augment his capacity to analyze those and track them.

Ms Martel: The recommendations that are flowing from the various inquiries?

Mr Fleming: And the comments coming back from ministries on their progress with implementing them. I think that's what this says.

Ms Martel: Given it is the coroner's office, I believe that's funded by the Solicitor General.

Mr Fleming: That's correct.

Ms Martel: So the original denial for that, after the first inquest, was not by your ministry?

Mr Fleming: If it's a request by the coroner for additional funds from the Ministry of the Solicitor General, that has nothing to do with us.

Ms Martel: It didn't say that. I'm assuming the coroner's office is not supported by Comsoc but by Sol Gen. Am I correct?

Mr Fleming: That's correct.

Ms Martel: In this respect, would you have had any input, or would you have seen such a request previously from the coroner's office? Do they make their requests known to you because your ministry essentially funds the majority of services for domestic violence?

Mr Fleming: If this is indeed the coroner tracking recommendations from all coroners' inquests, recommendations go to all ministries. So again, it's an internal matter of the Ministry of the Solicitor General—I'm sorry; I haven't read the whole article.

Ms Martel: Maybe I'm not making myself clear. What they seem to be asking for specifically is to be able to track the recommendations that come from the coroners' inquests—the recommendations from May-Iles and from the Hadley inquest—to see if they're being implemented.

Mr Fleming: Just those two?

Ms Martel: They talked about future ones too, and I hope that's not the case. I gather that at the time they made their submission to the Solicitor General's office, you would not have been aware of that request or asked to support it one way or the other, even though your ministry provides the bulk of funding for domestic violence initiatives. That's what I'm getting at.

Mr Fleming: That's correct. I'm not aware of the request. We're not aware of the request.

Ms Martel: So this would be the first time you have seen this second request as well?

Mr Fleming: Yes. That's correct.

Ms Martel: The one thing I would ask you to consider is to be supportive of this particular request. I understand it's not your ministry, and I understand you don't want to go telling other ministries what they should be funding. However, there have been two quite extensive, very public coroners' inquests, with a number of recommendations that are very significant with respect to trying to deal with domestic violence. Perhaps your ministry and the minister could consider some mechanism to support this request to the Solicitor General to see if this can be done. I think it would prove to be a very effective way to measure how we are doing in dealing with these important recommendations. I'll leave that with you to think about.

Mr Fleming: Just a quick comment, if I might. Certainly from a philosophical point of view, I don't have an issue with supporting the coroner and doing what the coroner does. Having served at one point as Deputy Solicitor General, one thing I can speak to is the very definite arm's-length relationship there is between the Office of the Chief Coroner and the rest of the world, for that matter, because of the nature of the work they do. I can see that there would be an issue in the chief coroner seeking to be funded by some of the same bodies, whether it's ministries or other bodies, where there are inquest findings to be done that might have a bearing on the arm's-length relationship. In other words, it seems to me that whatever the legitimate costs of the chief coroner are, they should come from the allocations given to the Ministry of the Solicitor General and not be supported by other ministries.

Ms Martel: I wasn't suggesting a request of funding support.

Mr Fleming: I thought that's what you were asking.

Ms Martel: No, my apologies. It was to see if yourself and the minister would support this funding request that is clearly being made, I gather, to the Solicitor General. It would be an important measure for a number of ministries, but particularly yours, to determine how we're dealing with these recommendations since you provide essentially the bulk of the funding for these initiatives.

Mr Fleming: We can certainly give that some thought.

Ms Martel: It would be a good measure against what recommendations were made and how the government is actually doing.

The Chair: The government side.

Mr Bob Wood (London West): I wonder if I might refer you to how we now fund children's aid societies, which I would define as: we define what services they are to provide, we pay them on a fee-for-service basis and then we audit them to see whether or not they are performing the services that they're supposed to be performing. I would like you to comment on what you see as the pros and cons of such a model for the shelters.

Mr Fleming: The one striking difference between the children's aid society and the violence against women world is the nature of child protection being a statutory matter, where there is a statutory obligation on the part of those societies to carry out certain work. While there is a high degree of importance to the work that violence against women programs do, there is no statutory requirement for that. I haven't really given the notion of that kind of framework a great deal of thought, but that's the thing that strikes me first.

Mr Wood: Those are my questions.

Mr Raminder Gill (Bramalea-Gore-Malton-Springdale): First of all, thank you for being here. Let me re-emphasize that violence against women is a very important area and, from the government's point of view, we want to do everything possible.

A couple of questions come up. I'm not sure what the terminology is, but in terms of long-term-care beds or the nursing homes—and you may not be able to answer this—the per diem, I believe, is less than \$50 and here the per diem is around \$100 on average, ranging anywhere from the low \$60s to \$600. How do you compare that? Why is it more? I'm not saying it's enough or not enough. I'm just asking, why is there a discrepancy in the two areas?

Mr Fleming: One comparator that we could speak to would be the emergency hostels that are operated by municipalities. There the current funding is \$38 a day, but that's a situation where people who use those hostel programs are coming in in the evening, are there overnight and leave immediately in the morning again. It's basically an emergency accommodation, a roof over their head for the night and, I believe, breakfast in the morning, as compared to violence against women shelters where women are staying there for a more extended period of time. Obviously there is a range of counselling and support programs of various kinds that are offered by

the VAW shelters that wouldn't be the same as in emergency hostels, so there's a significant difference in the staffing cost that would account for the balance of the difference.

1320

Mr Gill: Does the average \$100 include the counselling cost, is that what you're saying, or is it just the shelter cost?

Mr Fleming: Whatever program is offered by the shelter as shelter program would be built into that cost, yes.

Mr Gill: I read somewhere that there is a delay in counselling of between three and six months. Is that a fact?

Mr Fleming: Those are for longer-term cases, as Andrea pointed out earlier. There is not a delay for people who are there on an emergent basis as to their most immediate circumstances. But as we discussed this morning, for women who need some help on a longer-term basis deciding their future, there's waiting in some cases.

Mr Gill: How do we compare—I'm always curious—with the other provinces in Canada in terms of funding, in terms of usage, in terms of demand?

Ms Maurice: I have seen some information. I think I could say that unfortunately in this sector the information that we have nationwide is not really ideal, either in terms of tracking the need for services or the services provided. There have been a couple of surveys undertaken nationally to try and get a handle on statistics of women who experience violence. I think there was one done in the early 1990s and then later in the 1990s. Of course, we have police statistics that help us track that.

We do have information nationally, and provinces together have tried to collect information on the services that are in place. Unfortunately, that's just the data I've seen. There may be other data available, but sometimes we're dealing with apples and oranges in terms of trying to compare services. So there are some data on shelters. Certainly from what I've seen, the services we have, the beds we have, are proportionate to our population in the country.

I don't know the answer to your question in terms of cost comparisons. I haven't seen any data.

Mr Gill: This morning, Deputy, in your opening remarks, you mentioned something about the periods of high demand. Is it seasonal? Is that what you're referring to, certain times of the year?

Mr Fleming: I believe that it is. Something I've seen commented on regularly in the media is that the time of the Super Bowl is one time during the year when violence against women peaks. I believe there are some other times of the year when the usage is higher. I can't speak directly to when that is, but I know there are some swings. Andrea might have a little more information.

Ms Maurice: We also know that the end of the school year is often the time when a woman may choose to leave an abusive situation. She's attempting not to disrupt her children, so it is a time when she may seek assistance toward a move out of the house.

Mr Gill: Generally speaking, I think you had said this morning that the demand is being met except for perhaps during the period of high demand. Is that the case?

Ms Maurice: I think when the deputy made that comment this morning it was in terms of a finding in the auditor's report that women are sometimes turned away from shelters. There was a statistic quoted that one shelter reported that, over the past year, 1,000 women had been turned away. The comment there was that in a time when women are coming and looking for shelter services, there may not be a bed available. I think that's what the deputy's comment was in terms of the high demand. There may not be a bed available and, in those instances, what the shelter does is certainly ensure a woman's safety. They would not send a woman back to an abusive situation, but they look for alternative safety options for that woman. Those may include putting a woman in a motel for a short period of time, moving them out of their community to another women's hostel that does have space or perhaps into an emergency hostel. I think the demand referred to was demand on the shelter for their beds at any point in time.

Mr Gill: Is there an average length of time that these emergency shelters are needed? And is there repeated use, somebody who might have been there and they're back again? Do you have any statistics on that?

Ms Maurice: The length of time that a woman might be in a shelter—

Mr Gill: Emergency shelter.

Ms Maurice:—in an emergency shelter might range from a few days to a few months. Sometimes women do leave the shelter and return, and in some instances a woman does make a decision—and we have to be clear: the decision is always with the woman of what she wishes to do in her life. She may choose to return to the home and then, at another, later point, escape the home again and return to the shelter. There certainly are instances where there would be repeat use of the services.

Mr John Hastings (Etobicoke North): Thank you for coming in today, folks. I have a few questions for you regarding the auditor's observations in terms of establishing measurable performance targets and indicators, to which you have agreed in your response on page 70: "effectively monitor the results achieved against the targets established; and monitor the relationship between the results achieved and the costs incurred." The ministry furthermore "agrees that establishing service outcomes and developing the means to measure and monitor those outcomes is a complex undertaking. Because of this, the ministry will be moving in stages."

My question to that quotation is, how long is it going to take Comsoc to develop these standards? Do you have a timetable? What will the standards be, in addition to the ones the auditor has mentioned in his observations on the report to this committee? For example, will the standards include energy conservation standards? Because when you have women going to a shelter, you've usually got children going there, and a lot of them are not adequately heated. How will you vary your standards of heating

from Toronto, say, to Thunder Bay? Because you're going to have to be consistent with the local heating bylaw. Not that I necessarily think—21 degrees is perhaps a little warm.

The Chair: You want it warmer than that?

Mr Hastings: No, the bylaw already is 21 degrees centigrade—

The Chair: I see, OK.

Mr Hastings:—and I'm wondering whether that is the best use of energy in such a place. What kind of standards will you have for learning for kids in a lot of these facilities? How does an agency that gets money from Comsoc deal with the disposition of sensitive information once a woman and her children have left a shelter or have come back? How is that handled? Can we expect some development on this in the next 60 days? It seems to me—correct me if I'm wrong, auditor—the transfer accountability standards have been missing since 1991.

Mr Peters: You mean transfer payment accountability standards?

Mr Hastings: Yes; value for money, efficiency, the ratio of staff to clients, the number of beds, all those things. You abandoned the bed ratio a number of years ago. The overall accountability standards: are they in place yet?

Mr Peters: The accountability framework?

Mr Hastings: Yes. If you take a look at your 1998 submission—

Mr Peters: In 1997, yes—

Mr Walter Bordne: I think there are two different issues here. One is—

Mr Hastings: There are two: you've got the VAW shelters and you've got the accountability standards that were to be reported on by Comsoc in 1997.

1330

Mr Bordne: The quality service standards for VAW, which is one of the two, were discontinued in 1995. The accountability framework has always been there under the MBS directives, although the ministry adopted its own framework which is tailored on the MBS framework.

Mr Hastings: Are you folks satisfied with the adoption of the standards they have?

Mr Bordne: In terms of the accountability framework, we said they'd developed one but it hadn't been implemented for this program at the time we looked at it. So it was in place but not implemented.

Ms Renwick: I'll just say around the governance and accountability framework that it's a complex framework and needs to be done right. So we've developed an MCSS framework built on the MBS one, we've shared it with all the agencies, we've talked to them about it, we've added the service schedule piece about board capacity, and we've done a business cycle checklist for ourselves. So we're really moving ahead in terms of monitoring and establishing service expectations. This year's budgets and service contracts will move us a considerable way.

In terms of some of the other questions, the local heating, that's one of the reasons we negotiate the budgets and the service contracts individually, because we might have extra costs in one place or another. What matters isn't the end number so much as using the same approach and the same criteria in establishing each service contract. So you consider heating, for example, and if the cost is higher in one place than other, you've considered that consistently across the province. That's where we're trying to be.

In terms of the sensitive information, all the shelters are very aware of the sensitivity of their location. For example, they're not listed in the phone book and those kinds of things because they want to provide a really safe environment, and they regard record-keeping and the sensitivity of information extremely highly. I'm not aware of any particular incident where there's been a breach in terms of that kind of information. It's taken very seriously by each and every member of staff in every shelter.

Mr Hastings: The ministry's response to me is completely unacceptable. You've got, "We'll be moving in stages." You've been working on this stuff for at least two years, it seems to me. What is so difficult about creating standards for care, standards for energy conservation, the protection of private information, capital management, replacement of roofs that probably in some instances need replacing, the whole fundraising issue? Why can't we get out of you folks, for once, some specific timelines and dates, that this thing will be finished by the end of July this year, and then you report back the two specific things are exceedingly difficult? Why do you have to invent the wheel, when there are probably similar services provided in other states, provinces, the United Kingdom, Australia? Utilize those and make adjustments where they would make the most relevant sense.

Ms Renwick: We do have a capital management plan and it is in place, and it is fair and transparent in terms of how capital funds are allocated. So that's in place. In terms of replacement, we do have what we call minor capital dollars, and those dollars are used every year for replacement of—health and safety kinds of needs. That would include a roof or a fence for a secure program. The governance and accountability framework is in place, but it's an iterative process. We do refine every year because we do want to get better. So it's in place, but we're trying to get better at all our activities.

Mr Hastings: Well, that's encouraging. Let's go back to an experience I had as a councillor in Etobicoke in 1993. One of the shelters in an area not far from there lost its charitable registration from Rev Can; we helped get it back for them. You folks are talking about creating standards for your boards of directors on what kinds of things are expected of them in terms of all these things. To use that one example—you probably weren't aware of it—you were still flowing monies to that particular women's shelter but the treasurer hadn't even reported to Rev Can on the financial affairs of the organization so

Rev Can yanked their charitable status. You probably weren't there, but it seems to me those sorts of things are illustrative as to why you're still developing boards of directors guidelines for responsible behaviour, how to conduct a meeting etc.

Ms Renwick: We expect boards of directors to be able to manage and we fund the boards to do that. But increasingly we've found that with board turnover and an increasingly complex environment, they do need our help. And the manuals are more than how to run a meeting. They go to the roles and responsibilities and accountabilities of board members so that they each understand what their responsibilities are on a board. That's where we're trying to be with that.

Mr Hastings: What kind of timeline commitment can we get from you folks as to when most of this stuff is going to be in place?

Mr Fleming: I think the answer is that it's in place now. As we're describing to you, we're working always with those agencies to improve on it.

Mr Hastings: But in your ministry response, you're saying "moving in stages," on page 70. If you use that as an indicator, why are we so vague? Why can't we have materials and documents submitted to this committee that indicate how far along you are and what you have to achieve yet on the specific items that the auditor has raised and other members of this committee have raised regarding accountability guidelines for transfer partners and for the VAW program as well?

Mr Fleming: I remind the member that this report you're looking at is for a period some time ago. We've moved a considerable distance forward since then. That's why I'm making the assertion that we have those mechanisms in place now, recognizing also, though, that we're still working with our transfer payment partners on perfecting and improving.

Mr Hastings: Deputy, would you be amenable to submitting documents as to how far along you are on your plan regarding some of these deficiencies the auditor found, particularly regarding the VAW program?

Mr Fleming: I'm not really clear what documents the member is referring to. I think we've undertaken to provide some documents earlier this morning. I don't know specifically what it is you're looking for.

Mr Hastings: You have in your ministry files, it would seem to me, documents that indicate how far along you are on the matters that are referred to on page 70. You must have working materials. You must be able to submit to this committee how far along you are in terms of developing however you define service expectations for—

Mr Fleming: There are individual contracts for every agency. I don't think that's what you're asking for. Every agency has a service contract that sets out what our expectations of that agency are.

Mr Hastings: But the auditor says that the level and the scope and the nature of the service expectations are not clearly defined.

Mr Fleming: Two years ago.

Mr Hastings: They may be in the service document for each agency, but the ones they looked at in Comsoc's files don't seem to indicate the same. Is that not true?

The Chair: You're referring to page 7, Mr Hastings. What document—

Mr Hastings: Page 70.

Mr Fleming: You must have different numbering than we do.

Mr Hastings: The transfer payment agency accountability and governance documents. When we look at that particular response, I surmise that there must be some working materials in the ministry regarding the phrase that the ministry will be "moving in stages" in the middle paragraph of the response to the auditor's recommendation dealing with value for money, service expectation outcomes and so on, section 3.04. If you're moving in stages, there must be things that you haven't completed, obviously. There must be things that you are still working on. Would it not be possible and feasible to submit to this committee what exactly those items are that you've already completed and the ones you're still working on that clearly define and give us as members a better understanding of where we are in this situation on the accountability and governance issue?

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Mr Fleming: Mr Chair, I think we could provide a summary to the committee that would get at what Mr Hastings is looking for.

Mr Hastings: Would it also include benchmarks and timelines for the things you are still working on that will be completed by a certain date in the near future? Is that not a reasonable request? Or a set of timelines for those items which are, as you put in your response, "complex"?

Ms Maurice: I think what we could provide to the member is our progress on the implementation of our governance and accountability framework. The summary could provide you with the initiatives that we have already undertaken and the initiatives that we plan to undertake with the timelines on those initiatives.

Mr Hastings: Thank you very much. Do I have more time left, or is that it?

The Chair: Well, we are in the last round. Do you have any final questions?

Mr Hastings: I'd like to have Comsoc submit to the committee some of the numbers on women who go through either program and where they end up. Do we have consistent repetitive cycles of return? Do you track stats on a regional basis? Do you find people who are living in urban areas more prone to returning to a shelter because of an exceedingly difficult relationship? Or is it more the other way, in rural Ontario or northern Ontario? Do you track—when they leave the shelter, do they end up getting into any job training, do they go back home for a while, or neither of those? What exactly happens to these folks who end up having to go through either program? Do we have any numbers like that?

Ms Maurice: We do have numbers on women and children who use our services. Of course, at the ministry we have aggregate numbers. We don't have information

on specific individuals. We have introduced a performance measure system whereby we are collecting information now on the evaluation of the services, but in terms of specific individuals, where they are six months after they have left the service—we don't collect that information. It may be that some individual service providers try to do some tracking and follow-up, but the ministry does not.

The Chair: I would ask, with your permission, for Mr Wood to take the Chair now. I've got a few questions. Unfortunately, Ms Bountrogianni wasn't feeling well.

The Acting Chair (Mr Bob Wood): Mr Gerretsen.

Mr John Gerretsen (Kingston and the Islands): Would it be possible for you to file a standard generic contract that you have with these various shelters? I'm not sure whether that was one of the documents you agreed to provide us with.

Mr Fleming: I think we did undertake this morning to do that, yes.

Mr Gerretsen: OK, thank you. The other issue—and this is to you, Mr Fleming—is that in an answer to Mr Wood a few minutes ago you said that there was a statutory requirement with respect to children's aid societies but not with respect to violence against women. Would you not agree with me that that changed when Bill 117 was passed and given royal assent, that we now do have a Domestic Violence Protection Act that in effect obligates the government of the day to some extent to be more actively involved in this whole area to the same extent that they are as far as protecting children under the children's aid society acts concerned?

Mr Fleming: Just give us a moment if you would.

Ms Kane: The Domestic Violence Protection Act has not been proclaimed yet, as you know, and was enacted in December 2000. It provides a level of civil protection to anyone over the age of 16 who is a victim of domestic violence. But it's not equivalent to the Child and Family Services Act.

Mr Gerretsen: I didn't want to mislead you there. I understand it has been given royal assent on December 21, 2000, but it has not been proclaimed as yet. Is that what you're saying?

Ms Kane: It has not been proclaimed yet.

Mr Gerretsen: I know that's a political question more than a departmental question, but do you have any reason, from a departmental viewpoint, a ministerial viewpoint, a ministry office viewpoint as to why the act has not been proclaimed as yet?

Ms Kane: I happen to know that the Ministry of the Attorney General is working on a plan to support its implementation and that that has been a demanding process in setting up the systems that will support women and other victims of domestic violence to be able to get the kind of intervention orders that the act stipulates they are entitled to. But it is not equivalent to the Child and Family Services Act.

Mr Gerretsen: I would just urge the government to get on with it because it has been a year and two months now.

I just want to get a drift as to how many—I take it all of these shelters are non-profit shelters. There's no such thing as a for-profit shelter in this respect, is there?

Mr Fleming: A for-profit shelter?

Mr Gerretsen: Yes.

Mr Fleming: Not to my knowledge.

Mr Gerretsen: How many other shelters is the ministry aware of that are out there in the province of Ontario that look after the protection of women and children that your ministry doesn't fund at all? Are there any of those that you're aware of?

Mr Fleming: I don't think we're aware of any. That's not to say there aren't any.

Mr Gerretsen: There may be some, I suppose, run by some church groups—

Mr Fleming: Possibly.

Mr Gerretsen: —or possibly even municipal groups. Yes, I understand that.

The next question that I have then is, do you keep any statistics on the amount of the total budgets of all of these 101 shelters that you're actually funding, between the amount that they request to be funded and the amount that you actually fund? In other words, do you know what the shortfall is that you're not funding, but that the various shelters have asked for? Do you keep any records on that?

Ms Renwick: The regional office would keep the individual amounts, the budget submission and then the service contract, but I don't think we keep it in a rolled-up manner and don't submit it to the policy branch or to corporate.

Mr Gerretsen: Could you undertake to get us those regional figures and maybe total them up for us?

I'll tell you where I'm coming from. I think we, as a society and as a province, have gone a long way in this whole area. I can still remember being involved with a shelter like this 25 years ago when there was absolutely no funding involved. Then municipalities got involved to some extent, and the government of the day, and I think governments over the last 25 years have provided funding. It's never enough. I realize that and I've heard over the years some very good cases from some very good shelters that have come up with some good reasons as to why they're not getting enough money, as far as they're concerned, for what they want.

I just want to get some sense from the people who are actually out in the field as to how much money they feel ought to be spent in this area so that they can provide the necessary services, and how much the government is actually giving to the shelters in total. I have no sense of that at all. Every now and then we hear from a particular interest group that it's not enough for this, that or the other reason, but is there a shortfall of \$20 million, \$25 million, \$5 million? Do you have any sense of that at all?

Mr Fleming: We don't have a sense of the amount, but we can certainly have a look at what information we have.

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Mr Gerretsen: I greatly appreciate that.

I take it that basically the regional offices currently decide within the parameters of the funding that they are given in this area as to how much the shelters in their area are going to be funded on an individual basis. Would that be fair to say?

Mr Fleming: Within the parameters, as you've said, of the ministry's overall policy, yes. Our attempt is very much for our regional offices, not just in this program but in all of our programs, to try to identify community needs and respond to them in the most effective way we know how. It varies from place to place depending on community structures and needs.

Mr Gerretsen: And would it be fair to say that's the reason why the various guidelines that we've talked about, or that the auditor has talked about and the requirements that he feels ought to be there, really aren't looked at as strictly as perhaps they are in other areas, because of different needs that different communities and perhaps different shelters have?

Mr Fleming: We've tried to focus on service expectations rather than on a rule book. So instead of saying you have to have X staff people for Y number of women in the shelter, we talk about the kind of expectations we want around service—as well, of course, as some basic things like safety and so on.

Mr Gerretsen: There was one figure this morning that kind of surprised me when you went from the 80-20 funding to the full provincial funding. You said that basically the province only ended up paying, for that 20% aspect, \$3 million. That tells me that the province was only spending about another \$12 million, being the other 80%. What am I missing there? I mean, at that point in time there was \$64 million spent by your ministry, I believe, so I would have assumed that the municipalities were spending 20% of that, which would be \$12 million, and yet you gave us the figure of \$3 million. Could you clarify that for me?

Ms Maurice: I can offer some information on that. There was a per diem established. I believe at that time the per diem was \$34.50 a day, and that was the cost-shared portion of the shelter costs. It was essentially, I believe, a room-and-board per diem cost. So we paid 80%; the municipalities paid 20%. We subsequently picked up the 20%.

In addition to that, though, the ministry also provided funding for services which were beyond the room-and-board type funding, so the per diem just referred to that room-and-board component of it. That was the cost-shared component.

Mr Gerretsen: OK, that clarifies that.

I just want to have this perfectly clear in my own mind. The comment has been made a number of times today that whatever local funding is picked up, which presumably is shown in a budget of an individual shelter, there's no relationship between the local funding that an organization may be able to raise and the amount of money you will allocate to that shelter. Is that correct, or is there another aspect to it that maybe needs some clarification?

Ms Renwick: I think the base funding, the block funding, provided by the ministry is generally based on the same standard across. The auditor said that that varies, and we say that's by community and those other things that we've referred to. For example, the deputy was talking about Halton Women's Place, where the fundraised money goes into capital, and other fundraised money may go into program enhancement. So the United Way might put in money which might be used for program enhancement.

Mr Gerretsen: But in a situation where money is being raised locally, either from the United Way or by the organization itself, you are not penalizing that organization in effect by affecting that block funding that they get from the ministry, are you?

Ms Renwick: We might be on some occasions, but not as a general rule. I don't know of any specific ones where we are penalizing.

Mr Fleming: Generally speaking, organizations like the United Way would have as one of their criteria that they're not going to replace government funding.

Mr Gerretsen: No, I realize that, and I also realize that it's much easier for an organization to be involved in a capital fundraising program than to raise money for operating funds, which is always a tough thing to do. So would it be fair to say that most of the money that's being raised locally, other than through other government or quasi-government organizations or United Way or what have you, would be going toward capital more than the operating side of things?

Mr Fleming: Capital, or augmenting program for something the agency wanted to do that was above and beyond, as far as I understand it.

Mr Gerretsen: OK. I don't want to put words in your mouth, but in those cases you are not penalizing the organization if they raised more money in order to enhance their programs?

Mr Fleming: Not to my knowledge.

Mr Gerretsen: That's all the questions I have. Thank you.

The Acting Chair: Ms Martel, do you have further questions?

Ms Martel: No, thank you.

The Acting Chair: Does the government side have further questions? Mr Hastings.

Mr Hastings: The serious reporting provisions that the auditor noted in his auditing of Comsoc—

Mr Fleming: Serious occurrence reporting?

Mr Hastings: Yes, page 116, where there seems to be some discrepancy or some need to have a consistent, common type of reporting form, whether it's paper-based or electronic: to what extent has Comsoc managed to come up with a solution to that problem so that all agency providers are now on the same footing if one of these stalkers manages to invade a shelter, to use an example which I would consider a serious incident?

Ms Renwick: A common form is in place, and common expectations from service providers. Recently the

regional offices were reminded to make sure they were in compliance with this policy.

Mr Hastings: How long has this been in place now? Since, say, last September?

Ms Renwick: Longer. About four years, I would think. It might be longer than that.

Mr Hastings: Is this form available for the committee to see?

Ms Renwick: Certainly.

Mr Hastings: OK. We'd appreciate getting it. As the auditor notes, there seems to have been an inconsistency in the one example he gave. I assume, then, that kind of example is an exception rather than a general type of response, given that you now have a better way of handling the reporting of serious occurrences?

Ms Renwick: I think that over the next year we'll see consistency in reporting in place.

Mr Hastings: Regarding what Mr Gerretsen mentioned about fundraising, what is the ministry's general philosophy if a women's shelter or a VAW organization decides to undertake capital fundraising on its own? Do you have a philosophy or a practice that in effect says that if the agency raises \$15,000 for a specific capital replacement, that money then would be subtracted from the agency that would be getting that \$15,000 from its fundraising effort?

Ms Renwick: I think we said earlier that sometimes an agency might come forward and say, "We need \$150,000. We have \$150,000, matched. Somebody wants to see that government's money is in and matched before they commit." In other cases, for other fundraised money, agencies do tell us what fundraised money they have, but we don't penalize them for that.

Mr Hastings: On the capital side?

Ms Renwick: On the capital or operating side.

Mr Hastings: On the operating side as well?

Ms Renwick: As far as I know.

Mr Hastings: Very intriguing. Has that always been the practice of Comsoc regarding its agency providers in this specific sphere, that if they raise monies for either operating or capital, even if the ministry had committed certain dollars for a capital replacement or an enhancement of an operating of an existing program, it would not penalize the agency for the fundraising anticipated or completed, in the past?

Ms Renwick: I can't speak to the past. I don't know.

Mr Fleming: I don't think it's terribly likely, if the government has committed funding to a particular program, that a fundraising drive is going to be particularly successful. It's my experience in communities that it's more likely that where there are needs that government funding hasn't addressed, like a capital shortfall or something like that, fundraising is more successful. That certainly goes beyond VAW into a lot of different programs.

Mr Hastings: Could you provide to this committee if there were any incidents in the past where the ministry did penalize a women's shelter or any similar organ-

ization related to these services and had the monies deducted from whatever they raised?

Mr Fleming: I think it's unlikely.

Mr Hastings: It's my common understanding that that was a practice of Comsoc in other areas dealing with seniors in the past, so I'm just wondering—and when I say "past," five, eight years ago—has it now been abandoned? What actually happened? I'd be most curious to know in terms of how that was handled. If this practice has only been going on for three or five years but in the past it was a different arrangement—we're not talking about United Way dollars, we're talking about monies that would be raised individually by a women's shelter for a specific need, either program enhancement or capital replacement.

Mr Fleming: It's unlikely that we would have an easily retrievable record if there were such a situation, but if we determine that there were any, we can tell you about them.

Mr Hastings: OK, perhaps correspondence can handle that reasonably well.

My final question deals with what you folks generally call service expectations or outcomes and how you are going to commit yourselves to trying to get a better handle on your financial controls for these service providers and yet not go to—and I understand why it would not be advisable—a completely rigid standard on a whole set of operating items because of all the differences across the province. How do you as an organization reconcile, though, this fine balance it seems to me you're walking between trying to adhere to what the auditor has reported out to this committee and your commitment to creating some form of standards in some of these areas yet keeping it somewhat flexible for the provision of services, whether it's a cost per meal per person, per child, which we know would be different in Timmins and Thunder Bay to what it would be in Toronto or southwestern Ontario?

Ms Renwick: We use the service contracting process that I've talked about before to set service expectations. We negotiate them with agencies. That talks about the type of service to be offered, the number of people to be served.

You're right about the balance. We've put a business cycle checklist in place across the province so that we're sure that every program supervisor is considering the same things as they negotiate that budget.

We do manage to the bottom line as well. Generally an agency is free to move money from line to line within the agency, so we're not tying them up in terms of they need this much money here and there. They need the freedom to manage, so that's the way we operate.

Mr Hastings: Is the purpose of this checklist to provide monitoring for you folks as well as the regional offices on the cost of different things that are required to operate, such as shelter heating costs being different, food costs being different?

Ms Renwick: That's done through the budget submission and the contract negotiation. The checklist is

I take it that basically the regional offices currently decide within the parameters of the funding that they are given in this area as to how much the shelters in their area are going to be funded on an individual basis. Would that be fair to say?

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My final question deals with what you folks generally call service expectations or outcomes and how you are going to commit yourselves to trying to get a better handle on your financial controls for these service providers and yet not go to—and I understand why it would not be advisable—a completely rigid standard on a whole set of operating items because of all the differences across the province. How do you as an organization reconcile, though, this fine balance it seems to me you're walking between trying to adhere to what the auditor has reported out to this committee and your commitment to creating some form of standards in some of these areas yet keeping it somewhat flexible for the provision of services, whether it's a cost per meal per person, per child, which we know would be different in Timmins and Thunder Bay to what it would be in Toronto or southwestern Ontario?

Ms Renwick: We use the service contracting process that I've talked about before to set service expectations. We negotiate them with agencies. That talks about the type of service to be offered, the number of people to be served.

You're right about the balance. We've put a business cycle checklist in place across the province so that we're sure that every program supervisor is considering the same things as they negotiate that budget.

We do manage to the bottom line as well. Generally an agency is free to move money from line to line within the agency, so we're not tying them up in terms of they need this much money here and there. They need the freedom to manage, so that's the way we operate.

Mr Hastings: Is the purpose of this checklist to provide monitoring for you folks as well as the regional offices on the cost of different things that are required to operate, such as shelter heating costs being different, food costs being different?

Ms Renwick: That's done through the budget submission and the contract negotiation. The checklist is

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Standing committee on public accounts

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Ministry of Finance,
Ministry of Health
and Long-Term Care

Comité permanent des comptes publics

Rapport annuel 2001,
Vérificateur provincial :
Ministère des Finances,
Ministère de la Santé
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ASSEMBLÉE LÉGISLATIVE DE L'ONTARIO

STANDING COMMITTEE ON
PUBLIC ACCOUNTSCOMITÉ PERMANENT DES
COMPTES PUBLICS

Monday 4 March 2002

Lundi 4 mars 2002

*The committee met at 1041 in committee room 1.*2001 ANNUAL REPORT,
PROVINCIAL AUDITOR
MINISTRY OF FINANCE

Consideration of chapter 4, section 4.07, provincial personal income tax revenue and related credits and reductions; and chapter 5, public accounts of the province.

The Chair (Mr John Gerretsen): I'd like to call to order the standing committee on public accounts. This morning we're dealing with chapter 4, section 4.07, of the 2001 Annual Report of the Provincial Auditor, the provincial personal income tax revenue and related credits and reductions, as well as chapter 5 of the 2001 Annual Report of the Provincial Auditor, dealing with the public accounts for the province of Ontario.

I'd like to welcome this morning Mr Bob Christie, deputy minister of the Ministry of Finance, and his delegation. Perhaps we could start off with your opening presentation, and undoubtedly there will be questions from the members of the committee following that.

Dr Bob Christie: Certainly. I'd like to introduce the people at the table here with me. Tom Sweeting is the assistant deputy minister, office of the budget and taxation; Gabe Sékaly is the assistant deputy minister of our fiscal and financial policy division; and Marion Crane is the assistant deputy minister of our tax revenue division.

Thank you for the invitation today to talk about the various measures you noted. What I'd like to do is begin by talking about the material in chapter 5, including the CHST supplements, accounting for capital grants to hospitals, legislative appropriation controls and accounting for tangible capital assets, and then move on to talk about the recommendations with respect to the personal income tax system.

I'm happy to note, as noted in chapter 5 of the Provincial Auditor's annual report, that the province did receive an unqualified opinion on the 2000-01 statements, which has happened on all our financial statements since 1993-94. This has been accomplished by working closely with the Office of the Provincial Auditor and his staff over the years to ensure that we're complying with the stated accounting policies of the province and with the

standards put forward by the Public Sector Accounting Board.

In that regard, I would note as well the auditor's role as a special adviser to two separate sittings of the Ontario Financial Review Commission, which have been very helpful in terms of providing guidance to us in going forward with adopting the recommendations of the Public Sector Accounting Board.

The board is an arm of the Canadian Institute of Chartered Accountants. It is responsible for issuing recommendations and guidance on accounting and financial reporting. It is independent of government, and its recommendations are developed through a public process, with comments provided by government representatives and provincial and federal Auditors General, as well as academics and others. The province has adopted those standards since 1993-94 for public accounts and in the budget beginning in 1995-96. This was in response to recommendations from the Ontario Financial Review Commission.

Beginning, then, with the CHST supplements, under those Public Sector Accounting Board guidelines and standards, we're required to record revenue when it's earned, not when it's received. The CHST supplements are recorded as being earned over a period of time because of two main factors: (1) the undertaking to the federal government that the money would be spent on new programs or an increase in health funding over previous levels, and (2) the allocation of the CHST supplement to various fiscal years as identified by the federal government in its budgets.

Some of the issues around this have arisen as a result of the way in which other jurisdictions have chosen to record the CHST, which has been different from the way in which we've done it. This is based largely on their interpretation of any undertakings they have made in this regard to the federal government. In their case, their auditors have looked at it from the point of view of their own fact instance and in these cases have recorded it in ways that may differ from ours.

With respect to expenditures, particularly some of the health capital grants, the Public Sector Accounting Board standards require that expenditures be recorded when they are incurred, not necessarily when the cash flows. There is a separate test from the actual flowing of the cash to determine when an expenditure should be recorded. For example, the test for operating expenditures is whether or not the goods or services have been

received. If we have received the goods or services, even if we haven't paid for them, we recognize the expenditure in that year and then we recognize the debt, the account payable, for the service for which the money has not flowed.

For government transfers, three criteria have to be met before recording the expenditure: it has to be authorized by the appropriate level or levels of government, and this is particularly with respect to transfer payments; any eligibility criteria that the recipient is required to meet should have been met; and finally, it should be possible to make a reasonable estimate of the amount of the transfers.

In May 2000, the province provided \$1 billion in capital grants to hospitals, and a further \$140 million was provided the following year. This was in respect to the functional plans for those hospitals approved out of the Health Services Restructuring Commission process. The grants allowed hospitals to move forward immediately with their capital plans, and the province determined that the three PSAB criteria I just described had been met. The grants were booked to the years in which they were made, and the province's financial statements recorded that accordingly. We're certainly aware of and have discussed with the Provincial Auditor his concern that these expenditures are for transfers that will fund spending over a future period that will exceed the year in which we're recording the expenditure. In fact, it may well occur over a period, over a number of future years.

This is an issue that I think a number of people at least would agree has not been adequately addressed by the Public Sector Accounting Board. All provincial governments and the federal government are required under the PSAB standards to record the transfers in one year that are intended to fund future services if certain conditions are met. The issue of how to deal with the particular reporting of these kinds of expenditures is one that has been addressed to the Public Sector Accounting Board and they have a project underway to review the accounting for government transfers. The Provincial Auditor and others have asked PSAB to address this issue as part of the project, and obviously if the Public Sector Accounting Board changes the recognition criteria for government transfers, under the province's stated policy of complying with those standards, our reporting for future transactions of that kind would follow the new recommendations.

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On legislative appropriation control, the Ontario Financial Review Commission and the Provincial Auditor have recommended that the standards we have adopted for public accounts in the budget also be adopted for legislative appropriation control, to improve consistency and transparency of financial reporting.

Work is underway toward having that capacity in place for adopting PSAB for spending authority. This will require and is requiring investment in systems and training of staff. We continue to make changes in the way in which we manage and record financial information in

any event for the purposes of good management. These changes, all taken together, will permit us to adopt those standards for legislative appropriation control if the Legislature chooses to do so. Under legislation currently, appropriation control is done on a modified cash basis.

On the issue of accounting for tangible capital assets, both the auditor and the Ontario Financial Review Commission have recommended that the province enhance financial information on capital assets. In the 2001 budget, the government committed to report capital on a full accrual basis over a period of time. This is similar to what the private sector does when it accounts for its investments, with the assets carried on the balance sheet and the expense being spread out over the useful life of the asset through depreciation. We are working with the auditor's office now to move ahead on that recommendation.

In summary, we have benefited, I think, in terms of our own capacities as staff from working with the Public Sector Accounting Board and we certainly have appreciated the co-operation and the work we have done with the Office of the Provincial Auditor and look forward to continuing in that vein with respect to PSAB standards.

With respect to the personal income tax matters and the follow-up to the 1999 report, we would note that Ontario's personal income tax administration was audited by the auditor. His findings were reported in the 1999 annual report and a follow-up report was included in the 2001 annual report. What I'd like to do is go through the recommendations relating to provincial income tax revenues and the credit system as they appear in the follow-up and describe the current status of the actions taken by the ministry.

Just to give some context for this, the current tax collection agreement for personal income tax, which is the framework that governs the way in which we interact with the federal government on this matter, was first signed in 1962. It's an umbrella agreement that includes all provinces except Quebec. Each province has schedules under that agreement that cover specific credits, audit arrangements, refund set-offs and other technical matters under the agreement.

There is a new tax collection agreement that has been under negotiation with the federal government for some time—at least two years to my direct knowledge—and the auditor's 1999 report has provided us with a very useful framework for discussing the tax collection agreement with the federal government. The issues he has addressed, including policy flexibility for the province, cost to the province of the agreement, payment flows, penalties and interest and the amount of tax audit that is done by the federal government, have been raised by Ontario officials in these negotiations, and all of them really fit into the broader issue of accountability of the federal government to the province for collecting Ontario income taxes.

We are hopeful that we are making progress on these items in the discussion of the tax collection agreement. We have made some progress in dealing with the federal

government on some of these matters over the past several years, but the recent announcement of the major federal error in terms of their collection and remittance of provincial personal income tax has certainly caused us some concern with respect to not just the financial repercussions, which are the dominant concern we'll have, obviously, but also with respect to the way in which this agreement operates and the nature of the information to which we have access, because we've not been able, over time, to get the kind of information we'd like to be able to anticipate personal income tax.

On the timing of personal income tax flows, the auditor recommended negotiating changes to speed up those flows and some progress has been made. In 1998, payments were speeded up. In 2001, the federal government consulted with provincial officials on the formula that governs payments to try and build in enhanced flexibility.

On interest and penalties, the auditor suggested that we needed more information on interest and penalties on Ontario personal income tax collected by the federal government, which is not remitted by the province; that's retained by the federal government. Minister Martin has said that he does not want to profit from collecting taxes for the provinces. That's certainly a commitment that we're taking seriously and pursuing with Ottawa in terms of what really is the federal financial bottom line in terms of their collection of our taxes.

The federal government did a study for the 1995-97 period which tries at least to demonstrate that they don't profit from the interest on the money they keep that is the province's, or the interest and penalties on unpaid taxes, because they are responsible for bad debts. Our review of their study does not convince us in any way that in fact they are not profiting from this administration.

The study has been updated. It was promised to us in late 2001, but we have not yet received it so we have not got the updated information from Ottawa on that matter.

In respect to audits of personal income tax returns, the auditor recommended that the ministry "establish minimum audit requirements" and ensure that CCRA is meeting them. This issue had already been addressed in tax collection agreements and will be re-emphasized as a very high priority for the provinces. The discovery of the federal error, again, demonstrates the importance of this issue and of improving federal accountability. We believe that other provinces will share this concern and this interest in seeing to it that the tax collection agreement contains stronger language on these matters now that they have also, potentially at least, been affected by the federal error.

With respect to tax policy, the auditor recommended that the ministry consider the renegotiation of "the tax collection agreement in line with provincial interests," including protecting Ontario's policy flexibility. We have pursued that aggressively with the federal government in the negotiations.

I'll move on now to property and sales tax credits. The first recommendation with respect to property and sales

tax credits was that the ministry should negotiate increased audit coverage to ensure that we have a better handle on the claims being made and that we reduce the incidence of false and inaccurate claims.

We did proceed with additional activity with CCRA. Early last year the ministry and CCRA signed a formal agreement to increase the audit coverage to 5% from the existing 2%. Part of that agreement is that we will bear the annual cost of that enhanced audit coverage, which is \$1.34 million.

1100

They started the increased audit coverage for the 1999 taxation year. Preliminary results that they've provided us show that they looked at about 100,000 claims, which is about 5% of total claims. About one third of those were adjusted, resulting in approximately \$6.75 million in recoveries, or about \$67 per claim audited. Those figures are in line with totals that the ministry had projected when the increased audit coverage agreement was being negotiated.

The second recommendation dealing with these credits was that the ministry should request Revenue Canada to audit a random sample of the remaining tax credit claims to ensure that any claim might be subject to audit and that the degree of overpayments can be assessed for the program as a whole, not simply for the target group that were being selected for audit.

Again, the ministry agreed with the recommendation. CCRA has conducted random sample audits for both the 1998 and 1999 taxation years. We're waiting for detailed data from them in order to determine the results of the random audits. They have agreed to continue these random sample audits in future tax years.

With respect to labour-sponsored investment funds, the auditor recommended that in order to help ensure that these funds complied with the terms and conditions of the act that provides for the credit to them—the ministry has taken steps in that regard. Every labour-sponsored investment fund must complete an annual certificate of compliance. Ministry auditors conduct an in-depth review of each certificate. Any issues identified are investigated in a field audit. The ministry has completed either a desk audit or a field audit of all active labour-sponsored investment funds in the last two years, and we have significantly increased audits of the eligible small businesses associated with community small business investment funds, to approximately 100 during each of the last two years.

The second recommendation was that "excessive or ineligible claims were to be identified, reassessed and collected on a timely basis." CCRA conducted a review of potentially invalid claims in the summer of 1999. Of the 1,750 potentially invalid claims identified by the ministry, 952 were determined to be valid by CCRA after audits of taxpayers. The other 798 claims were reassessed by CCRA in the fall of 1999, with a recovery of approximately \$400,000.

A process is now in place for the ministry to conduct reviews of labour-sponsored investment fund tax credit

claims on a timely basis so that any valid reassessments don't take so long that they can't be recovered.

With respect to the Ontario tax reduction program, the auditor recommended that in order to help ensure that Ontario tax reductions are only provided to eligible individuals and in the correct amount, "the ministry should negotiate minimum verification requirements with Revenue Canada." The ministry agreed and in September 1999 we began negotiations with CCRA to improve verification.

Prior to 1993, the federal government was able to verify the dependant information by cross-checking against dependant's claim for personal amounts as part of the basic tax system when there was an exemption or a credit for all dependants. When the federal child tax benefit was implemented in 1993, claims for dependant children were no longer made as part of the income tax return. They were provided through the child tax benefit and CCRA had no way to verify dependants being claimed for Ontario tax reduction purposes.

We asked that they review a sample of claims for the tax reduction for the 1998 taxation year. They advised us that a very small percentage of claims were not supported. We asked that these sample reviews continue to be conducted annually.

CCRA has recently advised the ministry that their computer-matching program identifies cases where duplicate Ontario tax reduction claims may have been made by both spouses. In reviewing these cases, CCRA ensures that the number of children claimed for Ontario tax reduction purposes agrees with information on the federal child tax benefit database. So they're using some of the computer information from these two different programs to cross-check. CCRA reviewed 16,000 OTR claims during the 2000 matching program.

That is our review of the recommendations, and we'll turn it over to you.

The Chair: Fine, thank you very much. Since we only have this morning, I would suggest that we have 15 minutes per caucus, and there may be some time left for some really burning, last-minute questions. This morning we start with the government side.

Mr Raminder Gill (Bramalea-Gore-Malton-Springdale): Good morning. Thank you very much. A made-in-Ontario tax system: give us some of the benefits of that if it's implemented and if you have an agreement with the federal government.

Dr Christie: Some of the key benefits of the made-in-Ontario tax system are that, because the province can now set its own rates, the value of many of the deductions, its own levels of progressivity of income tax etc, there's a better and more transparent understanding to taxpayers of Ontario tax than there was when our tax was levied as a percentage of the federal tax. It also provides some more policy freedom to the province. If we're successful in renegotiating the tax collection agreements such that the federal government agrees that CCRA can collect provincial initiatives that are not subject to veto by the federal government, then the

government would have a substantially enhanced level of flexibility to deliver personal income tax initiatives to the people. But I'll ask Tom Sweeting to expand on that.

Mr Tom Sweeting: I don't think I could add a lot to the basic gains that come from having tax on income as a mechanism. Made-in-Ontario is essentially, as Bob said, a system where we levy our tax on the taxable income of people rather than on the tax that they pay the federal government. So before, we used to have to mirror the federal government's distribution of tax rates and that sort of thing. Now there's an opportunity for Ontario to set its own tax rates, its own levels, by income and therefore deliver policy intentions that are designed specifically for Ontario and the Ontario tax portion.

Mr Gill: On page 26, you said that by doing additional inspections, at a cost of \$1.34 million, you recovered \$6.75 million. Basically what you're saying is that it's \$13 per claim and you're recovering \$67. It seems like a good return on investment, if you want to call it that. Has anybody ever paid any attention to the so-called underground economy and how much money might be lost by that?

Dr Christie: We have paid a great deal of attention to the underground economy and in several budgets added auditors and inspectors to target areas of taxation that are believed to be most subject to underground economy kinds of concerns. I think we've had on those a pretty good record of recovery on the audit side. Marion is certainly aware of a number of those initiatives, so perhaps she could expand on the underground economy actions that have been taken.

1110

Ms Marion Crane: We did increase our audit coverage starting in the last three or four years to target areas of the economy that we knew were areas that were not being audited before or areas where we were at risk, especially in some of the smaller areas. We want our audit to be a visible program and a deterrent program, and that's one of the important attributes of dealing with an underground economy, to ensure that you have a visible audit force. That's one of the things that we're looking at doing with increasing our audit.

Mr Gill: Any idea how many audits might have been done in that area and what the recovery might have been?

Ms Crane: Specifically in the underground economy area, I wouldn't be able to give you an exact number on that.

Mr Gill: OK. I'm done.

Mr John Hastings (Etobicoke North): Looking at your submission regarding the labour-sponsored agreements, I'd like to know whether you folks think there should be a review undertaken by the Financial Services Commission of Ontario, if that's its role, as to the effectiveness of labour-sponsored agreements in terms of job creation, their advertising—it might involve CS&B—and a whole related set of matters. It seems to me these operations have expanded significantly over the years, and they've done lots of advertising about how great it is to get a Mickey Mouse \$750 tax credit back, and you've

checked on that. But on a wider basis of tax policy, how effective are they? That's my question. I'd like to know whether you have had any conversations regarding the broader issue of their applicability to the Ontario economy. They claim they've created a pile of jobs, but if you look at their returns for the investor, except for the odd one, prior to the last two years it looks like they're mainly interesting tax arrangements, shall we say.

Dr Christie: The labour-sponsored investment funds have that credit, and because they're also eligible investments to be placed in an RRSP, the combination of the credit and the RRSP coverage can make them very attractive for tax planning purposes. In the budget last year, the minister talked about the need to be sure that our tax incentives generally were providing the benefits that were anticipated for them when they were put into place. Like some expenditure programs, it's necessary to review what you're doing on a regular basis to make sure that you're in fact accomplishing what the policy intent was; and if you're not accomplishing that policy intent, to make the changes required to ensure that you are; or if that policy intent isn't relevant any longer, to deal with the result. As a consequence of that, we are in the process of putting together a tax incentive review that will include labour-sponsored investment funds to do just what you have suggested we do.

Mr Hastings: My second question relates to the viability, credibility and reliability of the data we're getting from the feds regarding any issue—

The Chair: Surely only financial.

Mr Hastings: I don't need an editorial comment from the Chair regarding this.

The Chair: Any issue.

Mr Hastings: Any issue involving you folks, which could be more than financial. If you have questions as to all those items, then how can we continue to negotiate any kind of a new tax collection agreement with Ottawa?

Dr Christie: I'll address myself mostly to personal income tax data. A lot of the other information that we get from the federal government comes through Statistics Canada, which generally has a good reputation—perhaps not excellent, but certainly good, although we do watch closely those items from Statistics Canada that affect federal transfer payments, things like population etc. We want to watch those very closely to ensure that transfer payments that are set on a per capita basis are set at the correct level for the province.

On personal income tax, clearly information from the federal government has certainly been a long-standing problem over the last several years. Back seven to 10 years at least, to my knowledge and my direct involvement, the quality of the information, the currency of the information and the reliability of the information has always been a problem. The federal government has not, under the tax collection agreement, been aggressive in responding to our concerns about these things. They have tended to say that either there's no problem or that they'll undertake a study. Two years later they'll tell us that the

study shows everything is OK and we shouldn't be concerned.

We have obviously been concerned. I think the Provincial Auditor's office has been concerned when they looked at some of this material. But I must say that the error they showed us and explained to us at the end of January this year—the \$3.3 billion—was beyond even what I thought might be a concern.

Mr Hastings: Then isn't there a futility in continuing negotiations?

Dr Christie: There is a futility if the negotiations don't produce a regime that permits the provinces to satisfy themselves as fully as their auditors general need to be satisfied that in fact the procedures are appropriate, that the amounts are appropriate and that the federal government has the controls in place to ensure that the system is being administered correctly and the correct amounts are being sent to the provinces.

Again, they have not been very responsive to those sorts of concerns historically, but when all the provinces saw the kind of error they had made, and while this error primarily affected Ontario, BC and Manitoba, I think all the provinces are concerned that if that kind of error can be made, what other errors may have been made in the past or may be made in the future?

I think all the provinces will be much more insistent on having that kind of regime in place with the tax collection agreement. If we can't get that kind of regime, then we're having our taxes collected in a world where we don't have any confidence in the collector, nor do we even know how much it's costing us to have it collected, which is not a comfortable position or a responsible position to be in. I think people would want to look seriously at alternatives.

Mr Hastings: Is my time up?

The Chair: No. You still have a couple of more minutes.

Mr Hastings: Then I'd like to pursue the issue of collection and administration of personal income tax and all the other taxes they collect for us.

The auditor says in this report that there isn't any fee for the collection of personal income tax, supposedly. When it comes to the fine print, I read there is an \$8-million fee collected, if not for personal income tax then for a study of the penalties, interest and other matters. What are we paying money to these folks for if we're hardly getting any value under the existing agreement? Why are we paying that?

Dr Christie: The payments we make under the existing agreement are primarily with respect to extra services we ask them to provide. If we ask them to increase their audit coverage on one of our credits from what they would normally have done to a higher level, as we did with some of the credits I mentioned, their policy is that we pay the costs of the extra auditing they do. There's no direct fee for the basic service of collecting personal income tax, but they do retain, as we noted, all the interest on Ontario tax money that they hold and have not yet remitted to us. They collect and keep any interest

penalties, fines and other monies on Ontario tax, and they do bear the costs of any bad debt, any income tax payable that they can't collect. What we have been trying to do with them is determine what the cost is when you take all these things into consideration. It's certainly not free to the province in those various areas we talked about.

1120

Mr Hastings: How much is it, do you figure—your best estimation?

Dr Christie: Perhaps I'll ask Tom to address that. I know we have at least one number that we looked at in the 1997 budget, Tom. Perhaps you could—

Mr Sweeting: We had talked about numbers back then at \$100 million, I believe. The auditor made reference to a number in the 1999 report. Some of those numbers have to do with the fact that prior to about 1999, the federal government's way of paying us the estimates was unnecessarily delayed, and they've sped that up.

The big question mark we actually have right now is our view that interest and penalties exceeds bad debt as per the explanation from Bob, and we have not been able to get information that satisfies us that that's not the case. It's hard to come up with a number without the information the federal government, and only the federal government, has.

Mr Hastings: Incredible.

The Chair: The opposition members. Mr Patten.

Mr Richard Patten (Ottawa Centre): Just to follow up on the so-called overpayment, is the model you're using directed negotiations with the federal government or are you talking about putting in place a sort of third party vehicle that would be looking at the nature of the arrangements, the flows, the definitions of what's chargeable etc? In other words, I know you're talking about—and we have not been happy with—essentially total control by the federal government, and that's been identified by the auditor several times, I believe, not only in terms of the questions around who's benefiting and to what degree and all that sort of thing. In lean years it may be different, and in good years of course there are benefits.

My question is that in the interim, the immediate impact could be quite severe if the province were required to make payments back. I gather the feds have said that's not going to be the case, that there will be some arrangement to negotiate this. But seeing that everything is up for grabs in the sense that questions are being asked about the nature of the amount, the conditions under this, who's auditing etc, what does that mean budgetarily for, let's say, next year or the year after? Do you have any indications about that, or do you feel there are immediate pressures on our budget that could be substantial?

Dr Christie: With respect to the \$2.8 billion, which relates to the years 1993 through 1999, those numbers are being looked at intensively by the federal Auditor General, who had signed off on those years and is now revisiting that to get a more accurate number. The federal government has clearly said that in our case the \$2.8 billion is their estimate from having gone through, and

that they don't know and can't say at this point what the definitive number is. So the federal government is going through that with the federal Auditor General. We have the auditors general—the Provincial Auditor, in our case—from the affected provinces, and I believe Quebec as well, who feel they have some exposure because of equalization payments; that is, if this revenue had never been personal income tax revenue, then the federal government also overpaid equalization, which they shouldn't have paid. Quebec, I think, is concerned about that. So the auditors are providing some oversight to the work of the Auditor General and satisfying themselves that the correct procedures are being followed and that the information is being put together in a way that satisfies the auditors general. So at least on what the number is we will have some satisfaction as a province that the numbers will have been reviewed by the Office of the Provincial Auditor.

Erik, if I've mis-described that process, then—

Mr Erik Peters: The additional one that maybe you're not taking enough credit for is, of course, that your ministry has also provided a working group, and they are meeting, as you have mentioned in the document—or you didn't mention yet. We're working at it on all bases, because we want to make sure that in our oversight role, or in our role with the federal Auditor General and actually the internal auditors of CCRA who are also involved, we are not missing any of the particular salient points that are of interest to the province. So we have actually established a working group with some of the people at the other end of the table to ensure that takes place.

The particular point that was raised by the Ministry of Finance, and which was much appreciated, is the great interest that this is the sole issue, that there are not others that have to be addressed in the process; in fact, are there any other processing errors that could come at us in the future. That is the second leg of that.

Mr Patten: The last one is that regardless of what the figure is—let's say it's reduced by a third—it's still substantive. Presumably the federal government is saying, "Look, this can be worked out over a period of 10 years, 15, whatever," or what kind of a time frame are they saying this has to be within?

Dr Christie: They have not said anything about the timing or even their intention to recapture the money. What they have said is that their immediate concern is to fact-find on what the amount is. There is some belief that this error may extend back to 1972. So I think 1993 was really a reflection of how much time they had to do it and the kind of information that was available to them. I think they made a change in procedure in 1993 that gave them a sort of definable block of information to work with. It depends on whether they go back just to 1972; it depends if the error extends back that far.

For our part, we have indicated, and the Minister of Finance has indicated, that these payments were provided to us with the assurance of the federal government that they were the correct amounts, that they have been acting

as our agent on this. They gave us all the assurances they had available to them that these were the correct amounts, and the province made its plans on that basis and put money into health care and education and other programs on the understanding that these monies from the federal government were Ontario taxpayers' money. So we have taken the position that if an error has been made, we're certainly willing to see it corrected on a going-forward basis, but the mistakes they have made with respect to the past should be mistakes for which they bear the costs, not the province.

Mr Bruce Crozier (Essex): I just want to cover a couple of issues on this overpayment in connection with, I guess, the collection of personal income tax. We've established there is no set fee for the federal government collecting taxes on our behalf, and yet the federal government does benefit from interest on the money that's held, interest on the penalties that are put forward as well as the fact that it's netted out somehow by their taking responsibility for the bad debts.

If this agreement isn't fair to the province—and you've suggested it isn't, and I'm inclined to take your word and agree with that—why have we continued to go along with the deal?

1130

Dr Christie: The agreement, as it is, has the federal government collecting taxes on our behalf. We do not have the people or the systems to begin collecting it ourselves, and it would be costly to put those into place. Ministers of Finance for several years, certainly going back into the 1980s, have expressed real concern about the nature of the arrangement with Ottawa and have looked very seriously at setting up our own administration. There's also a concern about duplication in terms of the taxpayer, facing the taxpayer with two sets of tax returns to fill out.

When the Canada Customs and Revenue Agency was formed from the old Revenue Canada some years ago, the basis on which it was formed, and in the discussions with the provinces, because we're also stakeholders as participants in the tax collection agreements, the basis on which we as stakeholders said, "Yes, this is a good idea. Go ahead and do it," was that CCRA could be used to collect other provincial taxes than the ones currently being collected. I think the view that has been taken in Ontario is that we can achieve the flexibility we need and a number of the other benefits of working with the federal government in this way, by having a tax collection agreement that contains the appropriate safeguards and accountability mechanisms and by having CCRA collect Ontario taxes as determined according to Ontario's policy priorities.

The fly in the ointment there, I guess, is that the federal Department of Finance has the ultimate call on whether CCRA collects these taxes for Ontario and has not seen the wisdom of our interpretation of what CCRA ought to be doing. But we'll continue to discuss that with them.

Mr Crozier: I guess that's the point. I appreciate what you say. All I'm pointing out is that in an agreement there are two parties, or let's say in this agreement there are two parties. If it's not fair to one, then is it the fault of the other or is it the fault of the one it's not being fair to? I'm just saying that somewhere along here, if we're pointing fingers, I'm inclined to think fingers should be pointed both ways. If I get the bad end of the deal somewhere, is it that guy's fault or is it my fault? That's all. I'm glad to see that you're continuing to negotiate it.

On the mistake—and I will say at the outset that I'm one who's on the side of the province and inclined to say to the federal government, "Well, that's too bad, but let's go on from here," and, as you say, let's not have it happen again. But at the same time, I want to be able to support that argument. I say to myself, well, what would I do if the position were reversed? If it were an underpayment to us on behalf of the citizens of Ontario, I suspect I'd be standing and yelling loud and clear that I wanted that money. So I wish you well in whatever negotiations there are, because on this side of the coin—and there is only one taxpayer. I guess it goes from one pocket to the other and it's who's going to get the benefit for having done what. But I wish you well in your negotiations beyond that.

I want to get to a couple of accounting issues.

The Chair: You've got two minutes left.

Mr Crozier: Boy, oh, boy, 15 minutes. OK. I thought I had three.

Very quickly, you say the PSAB standards say that you should account for expenditures to be recorded when incurred, not when paid, and by the same token you should take into revenue not when it's necessarily received, but when it's accounted for.

The point then is the \$1 billion that was paid to the hospitals and that we, the provincial government, expensed in the year in which we gave it to them and which will be spent over a period of years. You say this is not addressed by PSAB. Where is the ambiguity? Why is that not clear? It is to me, but why is it not clear to you?

Dr Christie: In terms of the standards, they have been put forward to deal generally with government transactions and transfer payments. My understanding of it—and I'll ask Gabe to expand on this—is that the writers of the standards do not seem to have contemplated the sorts of transactions we have encountered in dealing particularly with the implementation of the Health Services Restructuring Commission recommendations, and there are similar issues around the establishment of trusts to provide services and funding over a multi-year period. Those don't seem to have been addressed explicitly. Therefore, in considering those specific transactions there is room for some ambiguity in terms of what those rules might say when applied to that specific class of transaction.

I'll ask Gabe to expand or correct, as the case may be.

Mr Gabe Sékaly: Basically, as we've laid out in our presentation, we have followed the PSAB recom-

mendations, as we see it, in terms of when to expense government transfers. There are three tests, and we followed those three tests.

As the auditor has noted in his report this year, as well as in last year's report, the professional standards in terms of government financial accounting don't address the issue of multi-year funding in an unequivocal manner. There is a grey zone there. We've had discussions with the Office of the Provincial Auditor over that in the last few years, and PSAB is presently reviewing that through a task force. Obviously PSAB believes there is a grey zone here as well, or else that task force would not have been formed. We believe we have followed the recommendations of PSAB as they've been set out at present.

Mr Crozier: You still haven't convinced me that you didn't know exactly what you were doing, and that is advancing money that was going to be spent over years. As I said, I'm not convinced.

Mr Sékaly: The rules of PSAB basically say that the transfer has to be authorized and the eligibility criteria should have been met and a reasonable estimate can be made. We have done that. Yes, we agree they will be used over a number of years, but the rules of PSAB allow us to expense in the year the decision was made, and we have followed that. Nobody has said they will not be used over a period of time. We have not stated that, but the rules of PSAB allow us and all provinces and the federal government to expense it in the year the decision is made if we met those three criteria in terms of transfer payments.

Mr Crozier: I merely put on the record that I'm not convinced. That's all.

Ms Shelley Martel (Nickel Belt): Thank you, Deputy and your staff, for being here this morning.

I only have a few questions. They do relate more to Ontario's positions in these negotiations, and I bear in mind that these have gone on for a long time. You were here two years ago in the middle of these negotiations when we first dealt with this and that the outcome is 10 years, but I would be interested in just clarifying some of Ontario's positions in this regard.

My first question had to do with page 18, where you're talking about the estimation formula with tax on income and that the feds had provided a paper and people were responding to it. What is Ontario's position with respect to this proposal?

1140

Mr Sweeting: Essentially, "improved estimation formula with tax-on-income" refers to the fact that the federal officials responsible for estimating income tax have been working with the provincial experts, our experts in finance, to identify ways in which they think they've come up with a better estimate than what was used previously. I'm not familiar with the actual specifics of how they accomplished that, but it was a joint federal-provincial effort that resulted, in our view, in improvements in how those estimates are made. They're still estimates.

Ms Martel: How does it relate to the next bullet point? Was that Ontario's proposal, to look at a collections-based system?

Mr Sweeting: Yes, we're looking at a collections-based system. There's an estimate system, which pays you so much per month based on an estimate, or a collection system, which would pay you as the money comes in the door. There are issues around that, both from a policy perspective—obviously, with an estimate system, you can get adjustments too low and then you can end up with the issue we've been talking about, that the federal government has the money and they're earning interest on it and we're not, which is an issue that is obviously of concern to us. But at the same time, you don't have much certainty, whereas for financial planning purposes, under an estimate system you know what you're going to get every month and you can work with that from a planning perspective.

There are also data issues. The way the federal government collects the data doesn't lend itself very easily to a collections-based system. But it's something we are still looking at—the benefits and the difficulties—on an ongoing basis, and we're looking at it in the context of this tax collection agreement that we're still working on and negotiating with them.

Ms Martel: So until that is done, do you have a clear preference?

Mr Sweeting: We don't have a clear preference at this point.

Ms Martel: OK.

Dr Christie: If I could just add, one of the difficulties that Tom referred to is that when the federal government collects income tax, theirs and ours, through the withholding system, they're also collecting Canada pension plan and employment insurance. They get the money in one cheque from the employers, and they have historically had a great deal of trouble separating out how much is for income tax, how much is for CPP and how much is for employment insurance. My understanding, at least, of what they do—and I can be corrected—is that at the end of the year they go back and pass through the information, particularly as they're auditing the returns, to determine how much is income tax and how much is these other things. So there are those kinds of data problems that result from the way in which they actually receive the money.

Ms Martel: All right. On the next page, you made it clear to the committee that Ontario had reviewed the study by the feds for the 1995-97 period and you weren't convinced that there wasn't a benefit to the feds. What information is missing, or what is it about that study that leads you to that conclusion?

Mr Sweeting: I'll take my best stab at that. I may have to give you a follow-up explanation of that, but essentially, it has a fair bit to do with the discount rates, as I recall, that are used in trying to estimate the implication, but it has more to do with the fact that the information the federal government brought forward wasn't identified by tax year; it wasn't year by year by year in

terms of the potential liability. So from our perspective, we couldn't line up the interest and penalties with the bad debts very effectively.

This is because—again, it's the case that they do not collect this information on an ongoing basis. They had to go in and do a sample of what they had. From their perspective, it's theirs and there is no need for them to identify the information this particular way. So we also had to look at how they came up with their measures of this. One of the reasons why they are doing another study is because of the differences and the desire to try and create more certainty around this. As I said, we are expecting this, but we haven't got the information yet.

Ms Martel: So what would be required of the feds to convert the information into a format that would allow for that tracking? I understand that they don't want to do that, and why, but would it be a huge problem for them to actually do that so all provinces would be able to see that?

Mr Sweeting: That's a tough question for me to answer without consulting people with probably a lot more technical background. I can simply say that the feds have indicated that this is a significant burden for them to do this in line with the other things they do on behalf of the provinces, and have agreed to do it in the limited circumstances of a study. But I'm not able to say if it's a huge job for them or not. Perhaps I can check. There are some folks who might give me a better sense of that, in terms of the size of it. In the end, they decide how exactly they're going to handle these kinds of things.

Ms Martel: On page 22, with respect to the audits, can you give me a sense of what Ontario is looking for from the feds in terms of audit coverage—numbers? I'm gathering that in the renegotiation you're trying to get it on a level where we're not paying for that, where it's not considered a special circumstance. Where are you operating from in terms of what would be something you would accept as much better audit coverage, with Ontario having some control over some of the factors involved?

Mr Sweeting: I can give a general confirmation of the view that one of the things that we believe is important in the new tax collection agreement is to have much more accountability to provinces for the aspects of the tax collection that the federal government is responsible for. We have been meeting with them on a whole variety of issues associated with renegotiating a tax collection agreement, but the idea of what they do and what it costs is one of the fundamental issues that is currently being worked on.

In terms of what standards we're looking for, I don't want to speak on behalf of my colleague from TRD, who will have much more authority in terms of an acceptable standard, but I think some of the ideas we've put in—a tax credit, 5% as a minimum standard. One of the things we want to be careful of, from a provincial standpoint, is that there are a couple of things that aren't significant to the federal government but matter to a province. One of the things that comes to mind is residency. From the federal government perspective, which province you're

resident in doesn't matter for federal income tax purposes, but it is quite important for provincial income tax purposes. Those are the kinds of things that we sit down—and the discussions happen at quite technical levels, typically, around how we can accomplish more there and are we satisfied with the sufficiency of what the federal government does?

As I said, they are bringing forward ideas of how to cost their activity. Again, they're trying to define, "This is what we do for free and this is how you pay for other things we do," and that can range from auditing that they do on our behalf, certain programs they run for us—tax credits would be an example. If they were to look at something like the recent stock option credit that was brought in, they'd look at those and say, "This is what we're going to charge you for doing it," whether it's average cost, whether it's marginal cost. We're going through discussions with them right now about on what basis they should be applying those kinds of costs. We accept that some things are unique to the province, but exactly how much they charge is an issue of some debate.

I don't know, Marion, if you want to add anything to that?

Ms Crane: Part of the issue is that we don't get enough information from the federal government right now to know how many they're auditing, information about what they're auditing. That's basically what we're looking at: getting more information. Then we can make determinations about what is lacking. But that's what is involved right now in the tax collection agreement renegotiations—to give us that right.

Ms Martel: Do the provinces, with the exception of Quebec, assume a joint position on these issues at the table?

Mr Sweeting: The tax collection agreements are, in effect, bilateral agreements between the federal government and each province, but they're very multilateral in their structure. The current agreement is, as Bob said, a framework agreement. It's a base that applies to everybody, with special circumstances negotiated with each province in terms of things they do in addition.

The current agreement—the discussions have been both bilateral and multilateral. There have been meetings with all the provinces and the federal government to talk about issues, and there have been meetings between the federal government and specific provinces to talk about the issues that are specific to them. Ultimately, in the end, there will be an agreement signed between the Minister of Finance and the federal minister.

Ms Martel: "In the end" is the key question.

Page 26: this goes back to your decision to increase the audit coverage and to pay for that. In your 1999 response, you had talked about developing a cost-benefit analysis. I'm assuming it was the result of that that led to that decision?

1150

Ms Crane: Yes, it was, and the returns were in line with what we expected them to be.

Ms Martel: This goes back to, just generally, your problem about getting information, because I noted on page 29, the second bullet point, that the audits for 1998-99, the random sample—you were still waiting for that information. Is this deliberate?

Ms Crane: That's just a timing issue. We will expect to have that information probably within the next month. It's a matter of when we get information from past years. We're not expecting any problem in getting the information; it's just that this is the length of time it takes to get it from them.

Ms Martel: Is there a reason for that?

Ms Crane: When you go back to the 1999 returns, having been filed in 2000, and then when they take a sample after and do their audit, by the time they do all those procedures it would take—it probably could be faster, but that's not an unreasonable length of time.

Ms Martel: Are you expecting 1998 and 1999 at the same time?

Ms Crane: Yes, because we asked them to do 1998 and 1999. This is the first time we asked them to do the random audits, and they're going to continue to do the random audits. We'll also, when we get the results, be able to tell how effective the random audits were and what we might be asking them to do differently as well.

Ms Martel: Are they charging us for the random audits as well?

Ms Crane: Not for the random audits, no.

Ms Martel: I think that's it. Thanks.

The Chair: We have about two minutes left per caucus.

Mr Bart Maves (Niagara Falls): I only have two minutes? It will be quick.

Page 352, chapter 5, talks about "Accounting for Tangible Capital Assets." "In June 1997, PSAB approved a new set of recommendations setting out rules for the recognition, measurement, amortization, and presentation of government capital assets. Among other things, the standard requires that a new statement of tangible capital assets be included as part of a government's summary financial statements."

Is each ministry responsible for keeping an inventory of its capital assets, and are we looking at moving on this request from the auditor and PSAB?

Dr Christie: Yes, each ministry would keep their own set of records. We are in the process of moving ahead with this. I'm sure you'll appreciate that when they haven't been doing it for a substantial period of time, for them to determine and try to put a value on the road system or our jails and our courts is a process that will take some time. We're in the process of doing that and we hope to have it done very soon.

Once we have those values, and in particular once we have a set of procedures within the government to actually value and manage capital on an ongoing basis, then it will be much more a part of the way we do business. It will become self-sustaining, if you like. At the moment we've probably got 15 or 20, if not more, different financial systems across the various ministries.

All of them are based on the old cash system, because that's the way we still do estimates in business planning. None of the financial systems that people are using have any reasonable records on the capital, and even if they did, they would all be on a different basis. So one of the things we're trying to do is get all ministries on the same basis of reporting in the same kind of financial system, so that Management Board and other central agencies can have a more accurate and businesslike sense of the way in which money is flowing in the government, including the costs and value of our assets.

Mr John Gerretsen (Kingston and the Islands): I'd just like to come back to the question that Mr Crozier raised earlier. I'm referring specifically to page 351 of the auditor's report. It talks about that billion dollars in capital funding for health care. I realize from your presentation that you're working on it and you hope there will be some uniformity, but for the life of me, I cannot understand, particularly for the layperson reading this report—the auditor makes a statement that "In the financial statements, which are prepared on the modified accrual basis, the funding was treated as expenditure for the 1999-2000 fiscal year. In the expenditure estimates and in Volume 1 of the public accounts, which are prepared on the modified cash basis, the funding was treated as an expenditure for the 2000-01 fiscal year." Surely to goodness, if we want to present an accurate picture to the people of Ontario, we can't have it both ways. We can't for one purpose say, "It was last year's expenditure," and for another purpose say, "It's next year's expenditure." It's kind of like a government wanting to announce a program twice. It's announcing it, it's paying the money to the hospitals, and then next year it's also putting it in the estimates because that's the year the money is actually being spent. What can be done to clarify that and go on one system once and for all?

Dr Christie: The problem you are identifying is the one that the Ontario Financial Review Commission also identified and made recommendations on both times they came together, that is, that our budget and public accounts should be on the same reporting system as our estimates.

Mr Gerretsen: So when are you going to do it?

Dr Christie: What we need to do is to move the estimates on to that system, and as part of doing that, we have to change all of the ministry financial systems and reporting systems. As I noted before, they're all different and they're all cash. We're in the process of doing that and have been working for a couple of years at getting everyone into the same framework, a framework that would allow us to put all the detailed information that appears in Volume 1, for example, of the public accounts—very detailed, line-by-line information that needs to be converted into the new framework. We're in the process of putting that financial system in place. For example, it's scheduled to come into place in finance in July.

Mr Gerretsen: Or should the estimates process in effect have been started about a year earlier or six months

earlier? The estimates process really takes place when two thirds of the year's already gone. I mean, that's wrong too, isn't it?

Dr Christie: Well, the estimates process for 2002-03, what we now call the business planning process, started in the fall of 2001. It is underway now and will essentially be completed by February, March, before the start of the fiscal year.

Mr Gerretsen: That's for your purposes, for your administrative purposes, but not from the elected person's viewpoint, because in fact the estimates won't be done until sometime in—when is it? October, November?

Dr Christie: That's right. They will be tabled in the House following the budget sometime in the spring, assuming that we have the conventional timing with respect to that, and then, as you note, it then proceeds through the legislative process.

The Vice-Chair: Thank you. Ms Martel?

Ms Martel: I have no questions.

The Vice-Chair: All set?

It being 12 of the clock, as they say, I want to thank you and your staff for coming. It's unfortunate we don't have more time. We enjoy this so much. Thank you very much for your time.

Dr Christie: You're welcome. Thank you.

The Vice-Chair: If that's the case, we recess until 1 o'clock.

The committee recessed at 1158, resumed in closed session at 1300 and continued in open session at 1337.

MINISTRY OF HEALTH AND LONG-TERM CARE

Consideration of chapter 4, section 4.10, Ontario Substance Abuse Bureau.

The Chair: Good afternoon. I'd like to call to order the meeting of the standing committee on public accounts, dealing specifically with chapter 4.10 of the 2001 Annual Report of the Provincial Auditor dealing with the Ontario Substance Abuse Bureau.

Good afternoon. Welcome to everyone. We have with us today Colin Andersen, the acting deputy minister, and a number of other people from the ministry whom perhaps you could introduce. We look forward to your opening presentation and afterwards there will be questions from the members of the various caucuses. Would you like to start it off, Mr Andersen?

Mr Colin Andersen: OK. I thought I would start with some opening remarks and then turn it over to Gail. I'm Colin Andersen. I'm the associate deputy minister of health as well as the acting deputy minister. Maybe I'll just have everybody introduce themselves first and then I'll go into my opening remarks.

Ms Gail Ure: Gail Ure, executive director, health care programs.

Mr Dennis Helm: I'm Dennis Helm, the director of mental health and addictions.

Mr Scott Macpherson: Scott Macpherson, manager of addictions.

Mr Andersen: On behalf of the ministry, I'm pleased to be here today and have this opportunity for us to provide our response to the 2001 report of the Provincial Auditor, specifically as it applies to the substance abuse bureau.

What I thought we would do is briefly preface our response with some context and an update on substance abuse in general. It's not going to be very long but we thought it would be useful to get a little bit of context.

The ministry funds about 160 agencies across Ontario to provide a range of addiction treatment services, which include withdrawal management, assessment and referral, early intervention and community counselling along with long-term and short-term residential treatment. We're spending about \$113 million in this area specifically for those with those services. With the primary responsibility for these services, the bureau continues with the responsibility to fund addiction treatment services and the mandate to reduce or eliminate substance abuse and other addictive behaviours.

Since September, the responsibility for managing Ontario's addiction agencies has been transferred to the regional offices. We're confident that this structural change is going to go a long way to improving addiction service delivery to Ontarians. Managing the agency's operations at the regional level will lead to the integration of services, both within the addictive service system and the broader community-based system.

As well as the development of policy and of best practices, and overall provincial support and coordination, our top priorities continue to revolve around reducing or eliminating some of the concerns in the area, such as funding inequities, measuring the effectiveness of addiction treatment, developing and implementing performance expectations and benchmarks for the treatment agencies, looking at the availability of treatment for clients with special needs, and ensuring that all treatment agencies submit treatment availability information and validation of treatment services.

Specifically, the recommendations pertaining to the Provincial Auditor's report on substance abuse have been substantially addressed. Actions in these areas include the development and implementation of standardized assessment and discharge tools, eliminating multiple and unnecessary assessments. Web-based training on administering tools has been established. An assessment tool manual will be released this month. We've been monitoring addiction service utilization.

We're looking at baseline information for outcome monitoring and cost monitoring; it's being established and will be included in the new data software. We piloted outcome and cost reports released to the addiction field in the fall of 2001 and on the DATIS Web site as well. We're establishing improved agency accountability through service agreements which will be sent out this month, including a common mental health and addictions agreement. There is an operating manual that's going to

be available to all agencies this month, and annual agency completion and ministry review of budgets, operating plans and audited financial statements. We recover unspent agency funds.

We're looking at the personal needs allowance that's provided to agencies on an invoice basis. We're developing a framework for treatment services for people who are dependent on opiates. We have a number of strategies underway to develop frameworks for residential treatment and withdrawal management, case management and clients presenting with concurrent disorders, and diversity and access. Formal reviews are conducted in response to complaints or when the ministry monitoring indicates a need for review. And we've been collaborating with the public health branch, the AIDS bureau and health promotion on issues related to substance abuse and harm reduction.

That's quite a lengthy list and I ran through it quite quickly. I'm now going to turn it over to Gail Ure, who is going to go through in a little more detail our specific response to the 13 specific concerns that Mr Peters had raised in his report.

Ms Ure: First of all, I'd like to talk about restructuring addiction treatment services. To expand on what Colin just said, the service provider liaison functions were regionalized to better integrate addiction services into the broader health care system. As you know, regional offices have responsibility for mental health, hospitals and long-term care already, and this provides another function. Many times the same clients use the same service, so it's important that there is that continuity.

As well, setting resource priorities will increase cohesion between the regions and the ministry. Right now we're developing joint service agreements and operating manuals for substance abuse and mental health. We've already developed an operating manual for addictions, but we wanted to integrate that with mental health to assist regions and agencies in defining expectations and clearly knowing what is expected of them.

With regard to treatment efficiency, the use of standardized assessment tools has been instituted for all agencies to provide better matching of client needs and treatment resources and to reduce the number of assessments to which repeat clients are subjected. This means a better use of our resources and a focus on a single assessment to best direct resources to treatment. The assessment tools are being refined to better meet the needs of our youth clientele. Furthermore, Web-based training on administering the tools has been established and a companion manual is being released this month. DATIS, which stands for the drug and alcohol treatment information system, is a software which will also monitor the usage of assessment tools in each of the individual agencies, and that will be available this month.

In response to funding concerns, a series of initiatives are underway. We work closely with the Ontario Federation of Community Mental Health and Addiction Programs regarding financial pressures experienced by agencies. We assess the value of services through

program reviews and now, with the implementation of the new data system that I spoke about, we'll be able to collect the baseline data needed for outcome and cost monitoring.

The ministry-led residential strategy is conducting a survey among residential treatment providers and withdrawal management providers, and that too will be completed this month.

In addition, a framework has been developed to ensure economical and efficient regional funding for the early childhood development initiative, which funding will be released in the not-too-distant future.

Agency accountability is the next issue. In response to this issue, a number of steps are being taken. First of all, we're completing schedules describing programs and services to attach to the service agreement. Furthermore, addiction service agreements will be compatible with the ministry-wide service agreements that are now being developed to be sent to agencies over the next month.

Pilot outcome and cost reports were released to the field last fall. The outcome work will be used in allowing for baseline outcome information in the new data software. Also, the ministry's transfer payment accountability framework will be used to develop enhanced accountability in this area.

Financial approvals and reporting are being addressed as follows: all this current fiscal year's operating plans have now been approved, and all of next fiscal year's plans have been sent out to the agencies with approval to be completed in the first quarter of 2002-03.

Colin had mentioned personal needs allowances. Concerns were raised about agency invoices. The invoices are now received on a monthly basis and validated on the basis of actual occupancy. The ministry is timely in making payment of personal needs allowances, with payments generally being made within a month of the receipt of invoices. We're monitoring the amount indicated on the invoices we receive from the agency, as well as what we're paying per client, and we're making adjustments as needed.

Bear with me for a few moments with regard to problem gambling, and we'll talk about some of the financial approval comments. Problem gambling is the next issue—

Mr Patten: You never win. That's the problem.

Ms Ure: Ten formal contracts are in place for special population, pilot treatment and prevention projects. As well, service agreements with agencies will be compatible with the ministry-wide service agreement currently being developed. Apart from that, the first provincial report using the DATIS information system that I spoke about was published last September and we continue to monitor services utilization.

With regard to performance measurement, pilot outcome and cost reports have been released to the field and are available on DATIS. As well, we're continuing to work with the agencies to implement the standardized admission and discharge criteria. Furthermore, as I mentioned, the standard assessment tools will be part of

DATIS, and that will enable us to monitor adherence to the criteria. So that's part of the follow-through in monitoring a process. With DATIS in place this month, we'll be able to establish benchmarks through outcome and cost monitoring.

Accessibility is the next consideration. We've developed terms of reference for our diversity and access strategy and have conducted a policy search. Membership is now in place and we'll begin to develop a framework this month. The series of province-wide consultations on the strategy for people who are dependent on opioids will be completed this month and a follow-up workshop will investigate barriers that are eliminating progress in methadone treatment and other interventions.

1350

With respect to waiting times, waiting times are monitored on an ongoing basis now through DART, the drug and alcohol registry of treatment. On average, waiting times across the province have increased by 30% over five years. However, it's important to note that the client volumes have increased 60% over the same period. The residential strategy, which includes a review of withdrawal management agencies and a review of assessment referral, is exploring ways to reduce waiting times.

Program standards are the next issue. This fiscal year, five agency reviews were conducted and completed, and the review process will now be coordinated with the regional offices.

Complaints are also being addressed. A standardized reporting format for complaints is in place to streamline agency reporting, and the process will be coordinated with the regional offices. As well, we've developed an operating manual for the addictions agencies which includes the complaints process. In this way, board members, staff members and volunteers will know the expectation and what to do.

The last issue concerns prevention. I'm pleased to say that two cycles of a province-wide newspaper campaign targeting problem gamblers and those affected by problem gambling were run this past fiscal year. An external evaluation of the campaign is underway with the collection of baseline data on knowledge, attitude and behaviour. This data will be the basis of future prevention initiatives. As well, the Ontario Problem Gambling Helpline generated more than 6,000 inquiries over the last year. Other prevention strategies included public awareness sessions in schools, community orientation sessions for professionals, a public awareness play entitled *After the Beep* which toured the province with performances at more than 100 schools, and the establishment of two prevention Web sites.

In outlining these concrete actions in response to the 13 concerns detailed in the Provincial Auditor's report on the Ontario Substance Abuse Bureau, I believe we've demonstrated our commitment to ensuring the best possible services for people with substance abuse problems. We take your report very seriously. In concert with

our commitment to the enhancement of the health system is our commitment to ensuring that the health system is accountable to Ontario taxpayers. To that end, we've studied the auditor's report. We appreciate your wise counsel and believe we are making progress on the recommendations. Furthermore, with the implementation of tools such as the drug and alcohol treatment information system, I'm confident we'll be able to make the best use of the resources we have at hand.

This concludes the formal portion of our response. Now, with the support of my colleagues, I'd be happy to answer any questions you may have. Again, you've previously been introduced to Mr Dennis Helm, director, and Mr Scott Macpherson, manager of addiction programs. Thank you.

The Chair: Thank you very much for the opening presentation. We start this afternoon with the official opposition.

Mr Patten: How much time have we got?

The Chair: Twenty minutes per round.

Mr Crozier: Thank you and welcome. I'd like to at the outset, since our time is fairly limited, go to the issue of problem gambling. You mentioned that there's a change in structure and that regional offices are going to be more directly involved in this. Is there more funding provided to one region as opposed to another because of the gambling activity that may take place in that area; for example, where a casino is located, as opposed to some area where there is not?

Mr Macpherson: We have 45 designated agencies across the province. There are agencies close to all of the gaming venues. Those agencies are funded based on treatment demand. So in an area like Windsor, we have a lot more clients at our Windsor office than we do, say, in one of our northern offices. They have enough admissions funded in order to deal with that load.

We've recognized that each of these areas has potentially a greater risk for problem gambling and, therefore, when we've done things like community orientation events, public outreach, those tend to be more active in those communities.

Ms Ure: There's another part to it too. When we did the study looking at gambling, folks said it's not just casinos, that it's also things like scratch tickets with young folks; it's that whole range of gambling possibilities. So they said not to limit, but to look at the broader range of problem gambling, and that would imply more of a distribution throughout the whole province.

Mr Crozier: The same types of other gambling opportunities are in London, for example, but they don't have a casino there, or at least a casino of the magnitude—so I was just curious about that. You said you attempt to match the funding to the demand. Is it on an annual basis, a lump sum? How do you arrive at what a region might need?

Mr Macpherson: We've done calculations based on what the average length of treatment is for clients. From there, we determine the number of full-time employee

clinicians who would be needed to serve that number of clients. Our problem gambling staff work really closely with each of the 45 designated agencies. We've done in-year increases if the demand has been dramatic within a short period. Otherwise, it might necessarily happen at the end of the year as part of their operating review.

Mr Crozier: If I understand correctly, you said the fiscal operating plans are approved for this year, but you don't have a budget yet for this year. How does that work?

Ms Ure: My apologies. I was not clear. The operating plans have been approved for 2001-02, and then we've sent out the request for agencies to fill out their requests for this coming year. My apologies.

Mr Crozier: No, I may have misunderstood. How are these agencies selected?

Mr Macpherson: There was a consulting process back in 1996, I believe. It was part of our province-wide rationalization. Essentially, the 45 designated agencies are part of our assessment referral system on the substance abuse side. We have 44 assessment referral agencies, and for the most part, those are the problem gambling agencies.

Mr Crozier: It may be mentioned in the report, but can you give me an example of what the agencies would be? Are they ones that existed in the community before? Were there new ones that came in?

Mr Macpherson: No, they existed. The whole assessment referral system was in place.

Mr Crozier: So what would be an example of—

Mr Macpherson: In Toronto, it would be MAARS, the Metro Addiction Assessment Referral Service. In London, there's an assessment referral service, but I can't remember the name.

Mr Crozier: Youth addiction to gambling is said to be increasing dramatically. One might even assume that it's a greater problem than in the adult or older adult population. Is that correct, and can you make some comment as to what we might be doing in the way of attempting to stem youth gambling addiction?

Mr Macpherson: Prevalence studies are generally suggesting that the youth prevalence rate is probably double that of the adult population. The adult population ranges from 2% to 4% and the youth population is probably in the 7% range.

All of our 45 designated agencies are mandated to see youth. They see youth. Also, all of our mandated agencies see what we call collateral or family members, which might be a youth family member of an adult gambler. Then we have the whole play thing that Gail mentioned. After the Beep was a play that was developed by high school students. There was a competition held, and the winning team was from the Soo, and then that play toured the province. I think you said there were 100 showings of that.

Ms Ure: Yes.

Mr Macpherson: Evaluation was done after each performance, and the feedback we've received is that there was a shift for the observers in terms of their

awareness around problem gambling and even an attitude shift. So it has had an impact. The YMCA is doing a pilot prevention project through seven communities across the province, working with existing agencies and with schools to develop a prevention strategy.

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Mr Crozier: I want to compare three kinds of addiction, and I hope you can help me understand how we're attempting not to treat but to prevent these. When it comes to smoking, there is an absolute regulation on any advertising, if in fact they can do any advertising at all. In one of my favourite sports, which is racing, within the not-too-distant future you won't even be able to have "Players" on a car or something like that. When it comes to alcohol, it's my understanding that there are certain restrictions on advertising alcohol. Yet if I think of gambling compared to those two and I look at the amount of gambling advertising on television and radio, but specifically on television where they are literally celebrating the good life with their gambling winnings, is your ministry looking at all at any kind of restriction or proposing to the government that there be restriction on gambling advertising?

Ms Ure: We have not at this point. We have looked clearly, you're right, at the tobacco and alcohol areas; we have not in terms of gambling. Part of what we're doing, as I said earlier—

Mr Patten: Conflict of interest.

Ms Ure: —we did a report looking at gambling across the piece, and that identified the 17- to 24-year-old as the target group. In the next stage, we'll be looking at how you address that, which prevention projects are actually working and what steps we take in terms of treatment on those. So that's the stage we are at in this new initiative.

Mr Crozier: Certainly I would think it would be within the responsibility of the acting deputy minister, but is it within the responsibility of anyone, if you'd like to comment, who you feel should recommend to the government that there be a serious look at how we openly and blatantly advertise gambling in this province?

Mr Andersen: I think the important thing to look at, as Gail mentions, is where you get the best value for your prevention dollar. I think anything has to be looked at in the overall context of the prevention strategy that's being looked at. Aside from advertising, there are some of the other initiatives as well. I think it has to be examined within the broader context of the strategy that's being developed, and that's where we've been putting our efforts.

Mr Crozier: Is that how you arrived at the fact that tobacco and alcohol advertising would be either eliminated or not allowed at all?

Mr Andersen: I think there are some differences there with regard to the specific addictions and, as well, the responsibilities of different levels of government with regard to Health Canada and their role in some of the advertising area. Just back to what Gail was talking about with regard to how we're looking at developing our prevention strategies, it has been more multi-focused rather than specifically on the advertising front.

Mr Crozier: But I ask again, is that the conclusion you came to with tobacco and alcohol? Did you go through that process with tobacco and alcohol?

Mr Andersen: I wasn't involved specifically in that.

Ms Ure: In tobacco, we're looking at other jurisdictions. Clearly we've looked across jurisdictions; we looked at what works and what works best. Gambling is a newer phenomenon, and the data aren't there in terms of what we've discovered to date. We're investigating and we're investing in research, and I'd like to look and see what that holds. Clearly the work that was done in places like California on tobacco certainly shows some of these things. We don't have similar data on gambling, but your comments are well taken. I'd like to take that back. Thank you.

Mr Crozier: OK, I appreciate that.

At this point in time, would you have any data on the suicide rate of drug addiction, gambling addiction, alcohol addiction and tobacco addiction? Any comparisons in those areas?

Mr Macpherson: I don't have them in my figures list.

Mr Crozier: Does that mean you have them, though?

Mr Macpherson: There is some data around suicide. I don't know how much there is on gambling. There is certainly some around substance abuse.

Mr Crozier: I can't, but maybe somebody can help me search the Web, and I might be able to find that. I just wondered whether the ministry would have that; if so, I would appreciate receiving it.

Mr Patten: Just to follow up on suicide related specifically to gambling, I would suggest strongly that you explore this. Obviously there's a vested interest, with government getting more and more hooked on gambling as we go along. Some 5% to 7% of its budget is now related to gambling revenues. The independence of Lotto in Ontario—which is out there competing with some of the very agencies that I suspect are out there trying to raise money to do a job at the community level. So we have all these kinds of conflicts of interest, I suggest.

The one that really bugs me, quite frankly, is that there is no public disclosure. It may not even have to be on a case-by-case basis, because I do respect the individual case in which suicide occurs. But I'm led to believe that it's fairly substantive related to casinos in particular. I was given a particular figure for the Rama casino. I had asked why this wasn't reported, and they said, "Well, we don't call it a suicide if the person is in hospital." So it's a hospital fatality. All I'm saying is that there's a cloak of secrecy around suicide, for obvious reasons, in that it could adversely affect the image of the commercial operation.

As leaders in our health care system, it seems to me it's incumbent upon us to really look at that and find out and recommend to the government, which may be something the auditor might take a look at too, that you can't have it both ways, that it's not a sweet, glorious thing all the way through. The piddly, little amount of money that is there for gambling addiction, I think you and I know, will not do the job. I grant you that there

have not yet been the categories and protocols in doing the research, which it seems to me should be one of the objectives out of this—and if you say there is, then great; I applaud you for that.

Ms Ure: Just along with that, a recent international study—

Failure of sound system.

Ms Ure: —of psychiatry, and what it showed was, looking at pathological gamblers, it found that 62.3% had a personality disorder, alcohol dependence or adjustment disorder. So it's the co-morbidity. It's having the two things there that makes looking at it a bit more difficult. It's not impossible; its just means this is what the studies are showing these days. Other studies have shown that between 19% and 54% of folks with gambling addiction have substance abuse and other issues too. So it's the issue of having both issues and having to treat both of them, and that's what we're looking at now.

Mr Patten: It seems to me that any gambling operation should be able to report in some fashion situations where people take their life or respond in an unhealthy fashion. So I'll leave that one at the moment.

I would like to go to another area. Can I ask you this: the Mandatory Health Programs and Services Guidelines which I have here, it's 1997. I asked the auditor earlier, and he felt this was perhaps something that was updated annually or semi-annually. How often is that updated?

1410

Ms Ure: Currently, it's on the Web site. There are 17 included within the mandatory programs. Five of them are being updated currently, but that's a bit beyond the scope of this discussion.

Mr Patten: Oh, it is?

Ms Ure: There is substance abuse in there, but not specifically.

Mr Patten: The one that is in there is the needle exchange program, which is worked through municipalities and then in conjunction with other agencies, or set up independently or even with health centres. Sometimes it's hard to track, because it doesn't fall directly under health centres and may be at the request of the municipality because the municipality has the elbow room to work the program.

Coming back to this, there is one program, and it might fall under responding to complaints. There was a letter sent to the minister by some people in my own riding who were very concerned about the decommissioning of syringes, and finding syringes on the street, in playgrounds or in schoolyards and this kind of thing, to the point where children were now discouraged from participating in the annual environmental cleanup day because of the worry of a child pricking a finger or whatever it may be, and we've had numerous incidents related to this. By the way, the mandate for that program on the implementation of it was only—what's it called?—a harm reduction sort of philosophy, which it seems to me would be another good debate one day.

The second part of the mandate, the terms of reference for the program in this instance—I would be happy to

give you a letter on that. I don't know whether you've seen this letter or not; it was sent to the minister. Somebody was suggesting there should be a second level; that is, once needles are given out, what happens with them and what is the responsibility in terms of collection and cleanup if they're not all collected etc, particularly in the interest of public safety—and in particular we're worried about children. I would leave that with you, but I wonder if you might have a general response to that.

Ms Ure: Could we get back to you on that?

Mr Patten: Sure.

The Chair: Any other questions at this time?

Mr Patten: I'll wait till the next round.

The Chair: OK. Ms Martel.

Ms Martel: Thank you to staff for being here today. I want to begin with funding. Deputy, if I heard you correctly, you said you're spending \$113 million now through the bureau. That would be for drug, alcohol and gaming addictions, correct?

Mr Macpherson: There's \$98 million that the substance abuse bureau manages, there's another \$15 million that is managed through institutions and there's the problem gambling money over and above that, which was \$21.7 million in 2001-02.

The Chair: How much?

Mr Macpherson: It's \$21.7 million.

Ms Ure: The \$15 million in institutions means hospitals and specialty hospitals.

Ms Martel: How does that compare, for example, over a five-year period? I'm interested specifically in the substance abuse category, the \$98 million. Is that an increase, a decrease? Is it staying the same? Give me five years, if you can.

Ms Ure: It's staying the same. There have been some increases in pay equity and a transfer from the Ministry of Community and Social Services. The recovery homes were formerly within the Ministry of Community and Social Services, and they came over. But basically the dollars have remained the same.

Ms Martel: When you say an increase in pay equity, the agencies are responsible for finding pay equity within their own payments now.

Ms Ure: That's correct.

Ms Martel: You say there may have been a hit some time in 1998-99 when the payout was made.

Ms Ure: That's right. It was actually 1999, and that was the initial one.

Ms Martel: With respect to that, that would mean a number of agencies have then been essentially flatlined for a number of years now. Of the 160 agencies you have, could you tell this committee if the bulk of them, two thirds of them, continue to have the same budget year after year, and for how many years? Do you track that?

Ms Ure: Yes, we do track it.

Mr Helm: Pretty well all the budgets for all the agencies have remained the same over a period of time. Last fiscal year, we did provide a 2% budget increase for

that fiscal year only. That was a one-time grant that all the programs did receive in that year.

Ms Martel: So agencies now are finding their pay equity payments, because the government is no longer providing that, and maybe that will change, depending on the court challenges.

What is the cost to agencies to implement the changes you've made in terms of protocol, assessment tools, discharge criteria etc? What are the increases in administrative costs—for an executive director and other staff, I suspect—to deal with that?

Ms Ure: A fair bit of that is staff time. They're doing those types of work in terms of trying to save time to do more clinical work in the longer term. Existing staff time would be the main cost of those things.

Ms Martel: Is there also, though, staff time taken away from other responsibilities to deal with those issues?

Ms Ure: I'm sorry. Could I have the question in a different way?

Ms Martel: I'm going to assume that in taking over some of those responsibilities, you might see staff not being able to do something else. Is that a fair categorization of what might be going on in agencies?

Mr Helm: The primary intent for standardized assessment tools is, first, to have a standardized system across the board for counting numbers of people served etc, but also hopefully to result in improved efficiency within that organization, because when each organization has their own, or if there's a variety of tools out there, there are varying degrees in levels of administration to run those. By standardizing, in many cases we're hopeful that it actually results in less administrative time, because they have a standardized tool and we provide them with the training and technology to utilize those tools.

Ms Martel: Are you specifically asking agencies about that and trying to track it? I'll tell you why. I've got letters from two agencies in Sudbury. One deals with women and addictions and the other with men and addictions. Both of them wrote to the minister in October, and both stated that the guideline of program administration not being more than 25% of an agency's cost is not realistic and pointed to their increased work with respect to the new tools, admission/discharge criteria, the new DATIS program etc. How many other agencies are telling you that?

Ms Ure: We can do another sample, if you'd like.

Mr Macpherson: We can do that.

Ms Ure: But in terms of written letters—

Mr Macpherson: There's been a number. I don't know what the number is. There have certainly been more than two. There have been a number of letters to the minister this year.

Ms Martel: Is the ministry going to try to track that to see what the impact is directly on agencies?

Mr Helm: On an ongoing basis we track pressures within the agencies and through their operating plans. With DATIS and some of the other tools, it is early on in the process, and we do plan to monitor their operating

pressures on an ongoing basis, which would include administrative activities. So we will be looking at those.

Ms Martel: I'm glad you mentioned DATIS, because they also referenced it. This particular letter says: "Although we welcome the ... program, we are concerned about the additional cost to our operating budget. We have networked computers at both sites and are now looking to connect with the Internet. We consulted with the DATIS staff, asking what would be required to use the program [and] have found that the cheapest service for our agency would total \$2,400/year.... As well, we require two additional computers. Will the ministry be paying agencies for Internet access so that they can be compliant with ministry requirements?"

Is that happening to every agency?

Mr Macpherson: We will fund the DATIS system for the agencies. If an agency needs a computer, that will be covered.

Ms Martel: Have you advised them of that?

Mr Macpherson: Yes.

Ms Martel: When were they advised?

Mr Macpherson: I'd say in the fall.

Mr Helm: The fall of 2001.

The Chair: Could you speak up, please. If you're getting information from someone, maybe it could be repeated for purposes of Hansard.

Mr Macpherson: OK. The agencies have been advised, we believe some time in the fall, that we would support them in getting up and running with the new DATIS software if that required Internet connection or hardware.

1420

Ms Martel: So the hard costs are all going to be covered. This letter was dated October 10. I will send a copy of this Hansard to them to make sure that they have applied.

The concern that was raised in both of these cases: one agency has not seen a change in their budget in 10 years, the other in eight. They've got negotiations that will start this year. They've both been managing to pay pay equity, but that's about the best they're doing at this point. They've got a serious problem recruiting and retaining staff, and they both have waiting lists.

How much longer can not only these two but some of the agencies providing important services last in an environment where they are just not seeing an increase at all in their budgets?

Mr Helm: We acknowledge the operating pressures that they were under. Last fiscal year we did provide the 2% increase on a one-time basis to address some of the immediate pressures they were facing at that time. Our plan and what we're going through now is to review operating pressures throughout our system, mental health and addictions, and determine what we might be able to do this year and into next year as we do our financial planning. That's as much as I can say at this point.

But from their operating plans, they have been clear in addressing their service pressures and identifying the funding requirements that they feel they require to at

least maintain the existing level of service, so we are trying to take that into account.

Ms Martel: The \$2.2 million was one-time only; it was not added to base?

Mr Helm: That's correct.

Ms Martel: In the majority of agencies, what did it address, what did it fund?

Mr Helm: In some cases, it addressed one-time pressures such as if they needed minor capital purchases within their operation, new technology that wasn't part of a ministry initiative, perhaps, or if there were some time-limited, one-time service programs that they could institute. They were a bit limited in terms of the timing. They had the money last fiscal year, so it was generally for one-time, end-of-year projects, with some service delivery in there, but it truly was one-time, usually minor capital purchases.

Ms Martel: So no impact on the operating side, wages and salaries, which would probably be the bulk of the problem for most of these agencies to try to address.

Ms Ure: Unless they did it one time.

Ms Martel: In this case, one of these agencies did.

Ms Ure: Yes.

Ms Martel: I also understand that an additional \$3 million was allocated "to implement addiction-treatment system and service enhancements." I'm reading from your response to the auditor in 2001.

Ms Ure: Yes, that's correct.

Ms Martel: What does that refer to?

Mr Macpherson: A number of initiatives; some of them were to enhance services, so that might have been to do a pilot methadone project or a pilot community outreach project. Some of them did surveys of their agencies, needs analysis. Some developed a diversity-and-access strategy. It varied. It was done through a collaborative process with each of the regions, involving the DHCs. We established implementation committees. They tried to come up with what suited their region the best. For instance, in Toronto, because there are no services right now in Scarborough, they wanted to deal with that, so that was a project they came up with in Scarborough.

Ms Martel: Was this funding again one time?

Mr Macpherson: It was one time.

Ms Martel: Was all of the \$3 million allocated?

Mr Macpherson: Yes.

Ms Martel: So they've had two hits of one-time-only funding, but nothing added to base, which, as you'll well know, is going to mean that their existing problems are just going to continue to exist.

The operational plans: you've said that almost all of them are done for this fiscal year. I have a question about the timing of that. Can you give this committee an idea of generally, with what you've seen since those are now in, what's the monetary value attached to the need of the agencies out there now?

Ms Ure: I'm sorry, I wasn't clear. The plans for 2002-03 have not come in. We've put them out, but we've not received the responses from the agency. They are due back April 4. Once we have those, we'll have a

better idea of what's out there in terms of your specific question.

Ms Martel: Can you give it to me based on the majority that are now in, even though the fiscal year is almost over? I'm assuming a lot of those needs wouldn't have been met, so they continue to increase.

Mr Helm: We don't have a specific total across the province in terms of the pressure that they have identified. On a program-by-program basis we go through the operating plan and see what their operating pressures are based on their current mandate and current funding level. Because we weren't in a position to fully plan for enhancements across the board, our immediate priority was to look at their existing pressures and their existing budget and what they could do within their budget. So we don't have a provincial total of the pressures identified by the 160 agencies.

Ms Martel: How did you arrive at the \$2 million in 2000? What was that figure based on?

Mr Helm: Arrive at the—

Ms Martel: The \$2-million allocation which you said went to meet operational pressures. How much of the need was met, and was there much increased outstanding need after that? Was that figure based on exactly what the needs were?

Mr Helm: It was based on some very general information that we had in looking at the pressures and the available resources within the program within the ministry as to how much we could put out to alleviate some of the immediate pressures. I don't have any accurate information right now in terms of how much that addressed of their total pressures. We don't have that information.

Ms Martel: So under a budget that has been flatlined for some time now, are there new programs opening, new beds being put into place anywhere?

Ms Ure: No, there are not. Currently, through some of the initiatives that we've talked about—ensuring that people aren't assessed more than once, ensuring that admission and discharge criteria are dealt with, ensuring that the assessment determines what treatment you get—I think we're increasing the throughput or the number of clients dealt with. So in fact there was a 60% increase in clients dealt with since 1997-98 to 2000-01. But that's due to the agencies as well and the staff in this area, who are terribly committed to doing the best they can do and doing it day in and day out, and boards that are committed to that as well. So it's a combination of the staff and the agencies that are delivering day after day as well as the procedures and the processes that help them match up and help them do a better job.

Ms Martel: So your waiting lists, if I just flip over to that, have increased by 30% over the last five years?

Ms Ure: That's correct.

Ms Martel: And your client volume by 60% over the same period.

Ms Ure: That's right.

Ms Martel: But essentially you're managing that with the same number of agencies, residential beds and detox

centres as you've had for some time. There has not been a change in any of those things.

Ms Ure: Some agencies have closed for weekend or holiday periods, so the number of days of care would be less. In some cases, they would have decreased one or two beds, if that was the way they could meet their budget and if that was what the board requested. So with this amount of money, a board would make a decision in terms of what services they could safely provide, and those decisions were made.

Mr Macpherson: Then there's a phenomenon shift in order to cope with it. Gail was talking about the dedication, where agencies' mandates are shifting: withdrawal management services may keep clients longer, assessment referral services may do more counselling and clinical work. To their credit, they're assuming responsibility to try to fill the gaps.

Ms Ure: There have been systemic changes too. In the past, and referenced in the auditor's report, some of the agencies had 28-day programs. An evaluation was done, and the 21-day program was just as effective. Similarly with the outcome data, they found that sometimes outpatient or non-residential treatment is as effective as residential treatment. Then another recommendation was going from group to individual counselling. In some cases that works, in some cases that doesn't, and that's why we need more performance measures to look at who is best in what environment, with co-leaders or single leaders.

Ms Martel: Just based on the numbers that you gave us, the increasing waiting lists and the increasing client volumes, it's clear that there are gaps that exist, and it's right across the province and requires a significant investment or an investment to be dealt with. Do you have any idea of what kind of money would be required to get rid of those waiting lists?

1430

Ms Ure: I've not done the calculation right here, no. I'm sorry.

Ms Martel: OK. Is the ministry anticipating receiving money in the near future?

Ms Ure: We're just in the midst of our business planning process, so I can't say.

Ms Martel: Let me tell you where I'm going. This government announces a mandatory drug and alcohol treatment for social assistance recipients and if you don't take the treatment your benefits will be cut off. From what I've read in the document from the auditor and from what you've told us, we already, without that, have a serious problem in the province, both in terms of waiting lists and numbers of clients who have to be served. Where's the money going to come from to deal with this initiative?

Mr Andersen: As Gail had mentioned, we're just right in the middle of doing our business planning process, which, as you know, is a multi-year process. We're looking at all the competing pressures the ministry is facing, as well as established priorities such as the ones you've mentioned and a number of others, so it's really

hard to say at this stage of the game. Within the next few months the provincial budget will come out, I would imagine. We'll be able to answer more directly at that point in time, once the ministry's full business plan has been examined—and the government's as well, not just our own ministry.

Ms Martel: Deputy, can I be clear? When the minister made his announcement—and this was not your minister; this was the Minister of Community and Social Services—on May 3, 2001, was there any funding attached to this initiative or has the government announced any funding for mandatory drug and alcohol treatment, and what's the level of it?

Mr Andersen: I'm not actually clear on that. It might be a question that we would have to have the Ministry of Community and Social Services answer.

Mr Macpherson: But we have been given assurances by that ministry that this will be fully funded, from our agencies' perspective, depending on the type of treatment that a client may have to go for, whether it's a residential treatment or whether it's a brief intervention.

Ms Martel: Can I ask you who gave that assurance?

Mr Macpherson: From the Ministry of Community and Social Services.

Ms Martel: They gave the Ministry of Health an assurance—

Mr Macpherson: They have indicated to us that there will be funding available.

Ms Martel: For how many clients?

Mr Macpherson: We don't know, at this stage.

Mr Andersen: Again, it will factor into the business planning process for both our ministry and that ministry. We'll have to see where things are at and what might have changed in the meantime since the original announcements were made. It's really difficult for us to get into any more specifics as to our ministry. You might have to direct some of those questions to the Ministry of Community and Social Services.

Ms Martel: The Ministry of Community and Social Services doesn't fund these programs, right? You folks do. Do they have any programs, alcohol/drug treatment, under their jurisdiction?

Ms Ure: No, they recently transferred the recovery homes to us, which I referenced earlier.

Ms Martel: Right. So they don't run the programs; you do. They've given you an assurance that the money's going to be there, but they haven't told you how much. Have they given you any idea of when that money will flow?

Mr Andersen: Again, I can only go back to the fact that we're right in the middle of our business planning for 2002-03. We're looking at all the priorities that the ministry faces in the broader context and trying to look at these programs in general, not just specific to this one particular area. We'll have to get back to you, because those decisions have not been taken yet.

Ms Martel: Have they given you any idea of the number of clients who might be involved? No. Have they given you any indication that if not all of the money

comes, because we know from recent public announcements by the Minister of Finance that there are going to be some big cuts coming, in fact we might have a situation where social assistance recipients who need drug and alcohol treatment are bumping people who have been on a waiting list? Is that a possibility?

Mr Helm: My understanding from the expected process is that that would not be an outcome. Again, as Colin was saying, it's an MCSS initiative, and our expectation is that they would be coordinating and looking after the service needs, from a funding point of view, for their clients. Our funding and our programs are targeted at the targets for our population, and if another population comes in, it would not be at the expense of the core funding and population we're serving.

Ms Martel: How could—

The Chair: We'll have to leave it at that, Ms Martel. Mr Maves?

Mr Maves: I just want to touch on the different types of addiction treatment. The regional offices are overseeing the monies laid out for alcohol, drug and gambling addiction treatment?

Mr Helm: The alcohol and drug funding is through the regional offices; the gambling is still a corporately managed project.

Mr Maves: OK. Now, when you treat an addiction, people in the field of addiction treatments acknowledge that it's the same behaviour, very similar behaviour, treated the same way, whether it's alcohol, drugs or gambling. Is that not correct?

Mr Macpherson: Yes, it's an addiction, but there's such a range. I mean, in terms of problem gambling, is it an impulse control disorder? Is it compulsive? Is it an addiction? Is it a disease? Within our addiction business, you'll get five different opinions around what's an addiction and what isn't an addiction. What we try to do as the Ministry of Health is best match clients with what they need, and clearly a cognitive behavioural intervention could work just as well for a substance abuse client as for a problem gambling client.

Mr Maves: The monies that have been allocated for gambling addictions over the past few years have gone up quite dramatically, from \$1 million to over \$20 million in the last four years?

Mr Macpherson: In the very first year, 1995-96, it was \$1 million.

Mr Maves: OK, and now it's up to \$21 million. Would not a lot of those dollars be going to the same agencies that are doing alcohol and drug treatment?

Mr Macpherson: They're all the same agencies, yes.

Mr Maves: They are all the same agencies?

Mr Macpherson: With the exception of one or two.

Mr Maves: So that extra \$20 million is now going to those same agencies that did alcohol and drug treatment and they have the added responsibility of treating gambling addictions. Do you have any idea how often gambling addiction is treated in concert with an alcohol and drug addiction?

Mr Macpherson: Research shows that the co-morbidity or the co-occurrence of problem gambling and substance abuse would range from 19% to the mid-50s per cent. It depends on the study. A recent Canadian study pegged it at around 24%.

Mr Maves: With that being the case, the fact that there's such a similarity or—I don't know a better word to use, but certainly a cross-pollination in this addiction field of people with these addictions, there's obviously a direct correlation between the alcohol and drug treatment centres and the gambling centres. Operationally, then, wouldn't it start to make sense for us to administer that funding as one?

Mr Helm: The funding for the two areas comes from two different sources. Right now, even though the 44 or 45 agencies that receive the gambling funding are also substance abuse service providers, they have two different budgets, then. Technically, the problem gambling budget they receive is for a very specific target population, and so is the substance abuse. But you're right, and as Scott said, I would say from 25% up to 50% of the clients would be in that one agency and hopefully access both the problem gambling services and the substance abuse services. And because it is in one agency, there is a common administration structure in place already, but with two budget lines. There is a distinction there that is required of those agencies, but they do try to maximize the cross-programming in a single administration.

Mr Maves: Yes, but I'm just trying to imagine—if I'm an agency with an alcohol and drug treatment budget and I have a gambling budget and 50% of my clients under the gambling budget are also being treated for an alcohol and drug dependency, it's got to be very difficult for them to separate all this out. To me, one could almost say you've increased the funding of alcohol, drug and gaming treatment by \$20 million over the past five years.

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Mr Macpherson: It is probably difficult for the agencies administratively. From a practical point of view, the agencies are going to look after their clients and they're going to look after them on an addiction continuum. Their counsellors are trained to do both, so they'll probably do what they need to do, hence the administrative problems with having two log books.

Mr Maves: I'm willing to bet the auditor wouldn't be happy with us requiring two separate sets of books from the same agency.

Interjection.

Mr Maves: Finance has more than two, though, we learned earlier.

Anyhow, I'll leave that one for discussion with the auditor at a later date.

Earlier, before we got into the funding section, you had said that a standardized assessment tool was introduced. When was that introduced, how was it developed, and who did you develop it with? You also said that you were continuing to work on it now. Why? Has it shown

some deficiencies? And who are you working on it with now?

Mr Macpherson: The Centre for Addiction and Mental Health was the lead agency involved. There are actually eight tools that have been developed. Gail mentioned that it was the youth that we were looking at. A number of the tools are not applicable for youth that well or don't fit that well, so we're using some of them—I believe we're using three of them—and then we're working on trying to develop some other tools. As we work forward with diversity and access, we'll need to recognize that eight tools geared for what might be an adult traditional male population in North America might need some tinkering as you start to look at different populations, and we're prepared to do that.

What was important was that what happened was that a client would come into the system and get assessed and assessed and assessed. Nine or ten times was not unheard of. The assessments were all different. It made comparability very difficult. It made any sort of evaluation very difficult. The notion of coming up with a standardized assessment is starting to give us those things. The cost, of course—when you start to try and standardize anything for such a diverse population, that's what we've got to work with and tinker with.

What's really quite interesting is that the field, initially somewhat resistant—because it's change—has really eaten it up. They're watching the clients shift just in the administration of a tool: a client who walks in kind of ambivalent or even in a place where they don't even want to be there, thank you very much, after their assessment they actually go through a bit of a shift. That, to me, speaks volumes about the bonus of this kind of thing.

Ms Ure: What that means is that less money is going on assessment and more on treatment in terms of the time. Someone from one of the agencies I spoke with a week ago came up and talked about the difference it has made in his program in terms of the assessment. He looked at the clients in terms of what difference it was making in their lives in having them connect and getting on with treatment, as opposed to just another stage.

Mr Maves: Did we come up with our own assessment tool? Did we borrow from others? If we came up with our own version of somebody else's, is ours being utilized now in any other jurisdictions?

Mr Macpherson: No. It's a mishmash. There is one tool that I believe we pay royalties to the US for. It's a mixed bag, and we developed some new ones. Some of them were in place with CAMH, the Centre for Addiction and Mental Health.

Mr Maves: Do you have to pay royalties to use an assessment tool that someone else developed? For how long would you have to do that?

Mr Macpherson: Well, we've been doing it for the two years I've been there, and it's \$10,000 or \$12,000 a year.

Mr Maves: OK. As to your problem gambling help-line and the prevention strategies that you talk about, the auditor in this report and most of his reports always

wants to know about measures and your outcomes. Have you been able to devise a way to measure your success or otherwise of some of these prevention initiatives?

Mr Macpherson: One of the initial research projects we did with problem gambling was to do a broad provincial survey, sort of baseline information, around attitudes and beliefs around gaming. It was euphemistically called Project Weathervane. It was a joint venture between a couple of our stakeholders. That will provide us with baseline data in looking at how people's values and beliefs start to change, what their cognitions are around gambling.

One of the things with gambling is that there are a lot of cognitive distortions. People don't know what the odds are. They think one in 14 million is large, not very likely. But one in 14 million is tantamount to zero, and those are the odds of winning the lottery. I'll tell this anecdotally: I had one of my staff about two years ago wanting to buy one of the hospital lottery tickets. He said, "It's only one in 15. It's great odds." So I ripped up 15 pieces of paper and put an X on one of them and put them in a cup and said, "Go ahead and draw." He decided not to buy a hospital lottery ticket. It's those kinds of distortions around gambling that we're working with quite a bit in terms of our clients.

Mr Maves: Your anecdote just totally removed my next question from my mind. I was just thinking about so many thoughts on that.

Go ahead, Raminder—I'll have to come up with my question again—if you want to ask yours.

Mr Gill: If I may, Chair?

The Chair: Yes, Mr Gill.

Mr Gill: On the same analogy, should he have bought all 15 and then he would have won?

Nonetheless, you mentioned earlier that there are 160 agencies and \$113 million in funding. Can you give us some idea of the smallest agency versus the largest? How much money is allocated to the smallest agency?

Mr Macpherson: You're looking at a range of \$200,000 to \$2 million.

Mr Gill: In terms of the clients served, what would be the ratio of the smallest agency versus the biggest agency?

Mr Macpherson: I don't have that.

Ms Ure: We can estimate now, but if you'd like the actual data, we'd be pleased to provide that to you.

Mr Macpherson: Anne is estimating 12 to 100 clients.

Mr Gill: My reasoning, again, is value for money. Are there any standards? What is the difference between the rural versus the urban agencies? I know in some of the other hearings we've had, there was some discussion, be it city-based versus outside. Does it cost more money to deliver the same service?

Mr Macpherson: With DATIS we're starting to develop those things and are collecting that information. It's not something we've readily had.

Mr Gill: In terms of problem gambling, is there any tracking of the socio-economic backgrounds of people who get into trouble?

Mr Macpherson: That's part of the demographics that are collected on every client that comes in. The ethnic question is there. There is an education question there.

Interjection: Is there an income question?

Mr Macpherson: There is an income question.

Mr Gill: We have the data on that. Is that ever to be shared or is that ever to be brought forward?

Mr Macpherson: That would be information that could be brought out in a utilization report. If DATIS did a report, they would include the demographics of the clients who are presenting.

Mr Gill: In terms of DATIS, is that fully functional now? Is the software working well?

Mr Macpherson: It's been installed, so it's up and running. We've had a system in place. It was a DOS-based system. We've now moved to a Windows-based system. Given what's happened in software technology, the DOS system just wasn't serving our needs.

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Mr Gill: In terms of the backlog in residential spaces available, is that getting better or worse? Are there more people in demand?

Mr Macpherson: Our waiting lists are not getting better.

Mr Gill: What is to be done to have them get better?

Mr Macpherson: Part of what we're doing and what we've been talking about here are those things in terms of the standardization of assessment and referral. We have seven mergers going on right now. We're starting to reduce duplication of services. The whole notion of regionalization—one of the things we believe will happen with regionalization is that the addiction agencies will start to work together better as a system. The addiction system is an eclectic system of a whole lot of different types of services, with people who are vested in the way they do business. There are a lot of people who have had their own addictions who are running agencies, so what worked for them in dealing with their addictions is what they think should work for the rest of the world. So there is a lot of kind of anecdotal, eclectic background that has formed the addiction business, and that has caused some inefficiencies. So we hope by regionalizing, by having them part of the regional structure, part of mental health, part of the community, that will make things more efficient as well.

Mr Gill: Are there more people utilizing the service, or do we have better tools to diagnose and see if there are more people using the service?

Mr Macpherson: I think the tools are better. Clearly, in over four years, we've had a 60% increase in the number of clients.

Mr Gill: How does that break down into gambling versus substance abuse? Do we have those stats?

Mr Macpherson: We're just really getting underway with gambling. Prevalence-wise, as I say, we probably estimate in the province of Ontario as high as 400,000 problem gamblers. We'll see about 3,000 problem gamblers this year, probably, in 2001-02.

Ms Ure: There is a DATIS report called Treatment of Problem Gambling in Ontario: Service Utilization and Client Characteristics. That talks explicitly. They looked at the clients from January 1, 1998, to April 30, 2000. There are a number of charts that look at what's really going on in people's lives: what was the reason for seeking help, and did that differ for men and women; looking at the age and gender of problem gamblers and what was the peak; looking at the disclosure of problem gambling and was there a difference between men and women—and actually, there isn't; and looking at things like the number of years gambling and the effect on the client's life in terms of was there a difference between men and women, and there was a small difference there. That report is available.

Mr Gill: Did we ever compare, after we had the casinos open, if you want to call it, Ontario jurisdictions versus some places where they've had casinos for ages? Is there any comparison? Are there more problems here or more problems somewhere else or is it universal?

Mr Macpherson: When the government moved away from the roving charity casino initiative and came up with the four charity casinos in Thunder Bay, Point Edward, the Soo and Brantford, we did socio-economic impact studies before the opening. That, once again, took a look at values around gambling, expectations about what people thought would happen to the moral fibre of their community, the economics of their community. We'd also looked at the current prevalence of problem gambling. The idea is that once they've been open for two years—we're now starting the follow-up studies to look at changes from the venues being open. Those are related to the charity casinos.

Mr Gill: I'm still trying to get a handle on a comparison between Ontario versus somewhere else.

Mr Patten: VLTs.

Mr Macpherson: Notionally, with VLTs, the prevalence rate seemed pretty standard, around 2% to 4%. I think when you look at the difference between 2% and 4%, if you're at 2%, you're more at the really pathological or problem gambler, and at 4%, you're up to the more problem gambler. There are notions in Alberta—some of the places that have VLTs, the faster electronic versions of gaming—where the rates are getting up to maybe 5%. So there is some notion, because there's a sort of perpetual feedback loop that people get caught up with in the electronic VLTs. But overall, it looks like it's in that 2% to 4% range across the world.

The Chair: To the official opposition.

Mr Crozier: I want to go to some of the pressures you face in the area of problem gambling. Let's say that a problem with gambling is not elective; you don't choose to be a problem gambler. So you're defined as having this problem, and yet you face a waiting list. What happens to them in the meantime? Do you have any idea what happens to a problem gambler when they can't get help?

Mr Macpherson: There are no waiting lists in problem gambling.

Mr Crozier: Oh, there are none. OK. That's good. I'm kind of like Mr Maves. That kind of shoots the rest of my question.

If there are no waiting lists, I guess I can ask if it is a growing problem, and if at least in the meantime you can sustain that growth.

Ms Ure: I think we can sustain the growth. We're watching it very closely. They also put data into DATIS, so that's how we know what the waiting lists are. Each of the 45 workers we have throughout the province do part-time in treatment and part-time in outreach, which is back to your issue in terms of prevention and community education and outreach.

Part of our issue is getting people to come forward. The problem gambling helpline has had a number of calls—a great increase in the number of calls—and that seems to be many people's first approach to saying: "I've got a problem. What do I do, and where do I go?"

Mr Macpherson: The helpline has had a number of advertising campaigns over the last couple of years. They've monitored the calls, and there's invariably a pickup in calls after an ad campaign.

Mr Patten: Because Mr Helm is here and he has a dual responsibility related to addictions and mental health, I'd just like to ask a brief question. There was a schedule, and we implemented Brian's Law—essentially there were some adjustments in procedures and abilities for getting assessment for someone who needed treatment. Then the community order was a big, big debate, as you would well remember.

I recall there was a commitment by the government that there would be annual reports on how that was proceeding, because there were some questions about developing the capacity around the province. I think 52 different programs were to be set up—or 44, whatever it was—and they were only part of the way there, and this had to be worked out with agencies and psych hospitals and all this kind of thing. When will that report sort of surface, or what's the status of it?

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Mr Helm: When we established the legislation and started implementation, at that point we identified the monitoring mechanisms and report-back. Part of the legislation actually says we must do a formal review in year three. So that is the formal timeline to report back. We're just in the second year, a year and a half into it. So a year and a half or so from now, we will have our formal report-back from a legislative point of view.

We do have ongoing monitoring. All our investments are in place. We put in place about 40 caseworkers—the number you were referring to—across the province to work on the community treatment orders and other pressures that come up around the legislation. We put in place case managers across the province to help them link with the community for housing and other supports. We put in sessional fees for psychiatrists. So all that is in place.

We have just over 100 community treatment orders to date that we're aware of. There's a time lag in some of

the reporting from the billing point of view. But we are monitoring that, and our formal report-back will be about a year and a half from now.

Ms Ure: That's on schedule. That's what we had agreed to do at the time.

Mr Patten: Good. So that's proceeding well, in your opinion?

Mr Helm: Yes.

Mr Patten: I'm truly glad to hear that.

Back to what's in the auditor's report. You have a variety of research elements. Some may be supporting some clinical studies or research that's happening out in the field, others may be researching the programs themselves and others, I suppose, may be assessing the relationship, the protocols of support, primarily being money and access to other resources that government may have etc. Do you still have the same amount of resources for research or has that diminished somewhat or have you been able to lever any funds in conjunction with the federal government in terms of the whole area of abuse?

Mr Helm: Through the Centre for Addiction and Mental Health here in Toronto—they're a key player. Partially through their core budget as well, they undertake research in the addictions and mental health field. We've worked with them, as Scott reported, on the standardized assessment tools, and they've done that kind of work, looking at other jurisdictions as well to see what can be applied here. On the gambling side, we also work with the Ontario Problem Gambling Research Centre, and we provide funding to them to do research in that area. So we are fairly well positioned in supporting research in addictions, and more recently in problem gambling, with more to go in that area so we have a better picture of the client and the needs.

We do try, through fiscal funding if it becomes available, to match or to facilitate certain tools that would help in our program area. The federal government, to some extent through their own initiatives, is also developing tools and best practices around the mentally ill with addictions that we benefit from as well, and vice versa.

Mr Patten: They had a report—I think it was about a year ago, somewhere around that—that I thought was fairly significant in their own research findings, which suggested that treatment solely on the basis of the individual provided limited results and that what had to be considered was the individual in the context of their social environment. That may be friends, immediate family, parents, what have you, which obviously suggests that the modality of treatment would change. Has that manifested itself in terms of restructuring certain programs?

Mr Helm: Programs in the mental health, addictions or substance abuse and problem gambling areas are all strongly based in including the people in the person's life, whether it's a partner, a spouse, a sibling or a friend. I think it's recognized throughout that that has to be a core activity, and I think that from working with our

agencies and our operating plan report-back, it's clear that is well-established. As you say, a specific treatment modality based on the individual will only go so far, and when they leave, if it's an in-patient service, and go back to the community, they need those supports. So by involving the group around that person to be part of the system, and our agencies do if that group exists—if it doesn't exist and the person is on his or her own, that poses other challenges for our service providers.

Mr Patten: I would just cite the case of Davis Inlet. The native people themselves wanted to take another approach, but of course they were not professionals. So the federal government works out an arrangement with the professionals. They take the children who are sniffing gas out of Davis Inlet and send them away. They spend, if not millions, literally hundreds and hundreds of thousands of dollars. Then the children come back. Of course there's no change in the modality, no change in the environment. Within days the kids are back to sniffing gas again. It just drives me nuts. What a waste, what insensitivity and what a lack of respect for others who have traditional ways of doing things. I happen to know this particular thing, and I just point that out so you know.

Their approach was to take the whole family out for a while into a constructive, positive environment and work with them, the youngsters and the parents at the same time, in terms of their responsibilities to each other and then back to the community. Some of those really were interested and keen, and we're only talking about a neighbourhood with a population of 600 people, so 10 families would be highly significant. Anyway, they wouldn't look at this, and this was \$40,000 or something of that nature. I just highlight that as an example of a missed opportunity.

The last thing I'd like to say before my colleague has a question is that while a lot of these questions the auditor asks about accountability and end results and outcomes and this sort of thing are there, and I see that the ministry has a response, my worry, having often worked in the voluntary sector, is that when you're there looking at government, believe me, it looks like, "Here we go again. More red tape." You get action, you get a ministry response and then you get—maybe the Red Tape Commission should go in after all this to see how much more paperwork and how many more administrative requirements there are. The value of streamlining what you're there to support should be clear at the outset, and the concept of supporting organizations doing their thing with explicit agreements on the job to be done and the expected outcomes, and you work with them.

I often felt the government was extremely paternalistic in imposing—of course it comes from the pressure of taxpayers' interests, and I don't want to misrepresent the auditor—when often there isn't the knowledge and understanding and consideration for a lot of people who work at very lousy wages because they care about others in their neighbourhoods and communities, and it becomes more and more a bureaucratic nightmare. So I just

offer that. Hopefully this isn't going to mean more and more paperwork for some of these voluntary organizations or agencies.

Mr Helm: When we instituted the rationalization project, and following up on the Provincial Auditor's recommendations, we did involve many of our community players in the process. When we looked at assessment tools, for example, the Federation of Mental Health and Addiction Programs and the alcohol and drug association were all involved in the process around the various tools. I think that was very instrumental in getting their buy-in and support, because of course their concern is, "What will this mean to me every day in my job?" and whatever. A result of many of the accountability mechanisms, we have found, actually does assist them in their jobs by having one assessment tool. For example, what one agency does, the other can utilize; they do fewer assessments. Reporting through DART and DATIS, they also get the benefit of accessing those services themselves, in terms of knowing what's available across the province. Getting reports from DATIS helps them in their planning as well.

I think it has been a positive exercise, starting with that concern but trying to really work through that it is a positive for us in our reporting in our system and for them. We have many successes in that area.

Mr Gerretsen: I want to continue with that. Do I take it that you have implemented the 1999 comments from the auditor's report, in which he basically lists a number of criteria that should be included in the service agreement? In 1999, for example, the auditor recommended that, "The agreement should bind the recipient to achieve specific measurable results according to established expectations; require recipients as a condition of funding to have in place the governance and administrative structures and processes; require recipients to provide periodic reports on the financial status; clearly establish the province's right to require independent verification of reported information; limit the obligation of the province according to the terms of the program approved by cabinet; and permit recovery of provincial funds and/or the discontinuance of ongoing funds in the event of recipient non-performance."

What I'm asking you is, are all the criteria he recommended in 1999 now included in the different service agreements you have with the organizations?

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Ms Ure: The service agreements are being issued at the end of this year, at the end of March. They've been worked at with agencies. We have other things to define the expectations. The operating manual does just that. It says what you have to do. It also outlines the recovery process, it outlines the expectations for recording, it outlines the expectations for the personal allowance payments and those types of things.

Mr Gerretsen: So you don't have service agreements with individual agencies in place right now?

Ms Ure: No, we do not.

Mr Gerretsen: OK. Next question: do you look at the number of clients an agency services vis-à-vis the number of staff people it has on hand? Do you look for a correlation there?

Ms Ure: We look for a correlation. That was part of the costing study, and what that showed was that it was more difficult than just looking at number of staff and number of clients. You had to look at what clients were getting, how much time. They actually did a costing study with 12 agencies, looking at that. What that will do is form the baseline to say, "Here's what people are doing, what methodologies they're using, how much time it's taking and also how many dollars it's taking." So it's the baseline as opposed to just doing a rough average.

Mr Gerretsen: Would it be fair to say that up until now most of the agreements that you have with these different agencies have evolved historically, that usually the kind of funding they receive next year would be X per cent more than what they got last year, so if you were in the game longer, you probably would get more money than if you were a relatively recent organization in servicing these kind of clients?

Ms Ure: There is a historical basis to the funding pattern, and that's why we had to do the costing going beyond just number of staff and number of clients. Historically, this program has been flatlined, as we've talked about, for a number of years, so there haven't been increases.

What we're looking at when we get new money in areas like early childhood development is developing funding models that make sense; looking at population, looking at things like that, as opposed to arbitrary allocations.

Mr Gerretsen: Are they basically negotiated at the regional level; in other words, between the regions and the individual service providers? Is the ministry as a whole—the Queen's Park ministry, if I can put it that way—removed from that process?

Ms Ure: A framework is developed at the provincial level and then local regions negotiate with local agencies in terms of delivering services. The board of the agency is key in terms of the management and the governance of that agency and determining how the services are provided.

Mr Gerretsen: Could you file with the committee a copy of the proposed service agreement?

Ms Ure: Yes.

Mr Gerretsen: Finally, on the question of increased waiting time and increased service levels, I listened to your comments earlier and also to the questions of Ms Martel that you answered. The number of clients who are in effect being serviced I understand has gone up by 60% but the waiting list has gone up by 30%. What does that mean, in reality, to an individual client? I realize there are all sorts of variations possible, but what does a 30% increase in the waiting list mean? If I need treatment now, as opposed to four or five years from now, how much longer do I have to wait before I get treatment?

Mr Macpherson: There is a triage aspect to waiting lists, so when we say they've increased 30%, that in and of itself might seem like a lot. But clients who are desperate, who need service right away, tend to get service right away. Clients who are thinking about getting treatment and are in a rather ambivalent or pre-contemplative kind of place might be quite happy to sit on a waiting list for a while. From what I've seen with the system, clients who are really in need will be seen and won't have the kinds of wait you're thinking about in terms of getting longer.

Mr Gerretsen: I have just one more minute left. You made a comment earlier about how some of the advertising with respect to gambling was very problematic, or at least it wasn't honest advertising. You gave the example of having a chance of one in 15 to win and it really wasn't one in 15 or whatever.

Mr Macpherson: It was one in 15; it's just that the cognitive distortion for the individual is that one in 15 is good odds.

Mr Gerretsen: OK, let me ask you this. What are you as a ministry doing in that regard to come up with some counter-advertising? Or are you making suggestions to anybody at the political level, through the ministry, as to how these kinds of cognitive notions could be rectified or corrected?

Mr Macpherson: We are doing things along that line. I think part of it is to look at the history of how the problem gambling strategy started. The first commitment was to get a treatment system in place. We didn't know how gaming was going to expand. All we knew when we started to do prevention, when we started to do research, was that when gaming started to expand we needed to have a treatment system in place that could take these clients, and that's what we've built.

I think we've built a wonderful treatment system. We have the 45 designated agencies. There is a dedicated problem gambling person in virtually every community in the province. Those people do outreach. The Centre for Addiction and Mental Health has developed a training manual. They go around and do community orientation events, in 30 or 40 communities, where they speak to allied professionals. Cognitive distortions and starting to recognize what problem gambling is about are things that are talked about and trained about.

It's been done to date on a more remedial level than what you're talking about. I think that's the next stage that we're moving into, the broader-based prevention.

Ms Martel: I want to return to the issue of waiting lists. I listened with interest to the comment that essentially if you have a need for a service right now you're going to get it. My question would be, if you need withdrawal management services right now, would you get that anywhere in the province? If you needed it right now, could you be guaranteed that you could get a space in a centre right now?

Mr Macpherson: No.

Ms Martel: What if you're a youth, what if you're 15 years old? Is it even more unlikely that you're going to get a spot right now if you need it?

Mr Macpherson: For withdrawal management?

Ms Martel: Yes.

Mr Macpherson: I wouldn't say it's any less likely. We're turning people away at detoxes right now.

Ms Martel: What I'm getting at is that you told the committee that you could probably get the service but in fact you can't guarantee that across the province, and for specific populations the situation would probably be worse, youth in particular.

I go back to what the auditor said in his 2001 report: "The ministry advised us that waiting lists were growing across the province due to insufficient system capacity and/or resources." Do I understand correctly that DATIS gives relatively up-to-date information on waiting lists?

Mr Macpherson: DART does.

Ms Martel: All right. Does that give us a breakdown in services needed; for example, withdrawal management, short- and long-term residential and recovery? Is it broken down in that way?

Mr Macpherson: That's available. I don't have it with me.

Ms Martel: Is it fairly recent, that it comes in from the agencies and has to be updated for the purposes of their receiving funding? Does that information come in from them annually?

Mr Macpherson: They submit their availability to DART, so DART is the one that knows what the waiting lists are and what the availability is for any of it, whether it's withdrawal management or—

Ms Martel: Do agencies have to do that through any particular time period: once a year, twice a year? Is there a requirement around them sending in information so that the information at DART is up to date?

Mr Macpherson: Weekly.

Ms Martel: OK. Could you give this committee—

Mr Macpherson: But withdrawal management doesn't do that.

Ms Martel: What does it do?

Mr Macpherson: Withdrawal management does not submit. The thing with withdrawal management is that it's not like—it's so short a stay. They could have three empty beds recorded right now and then five minutes later not have three empty beds.

Ms Martel: Fair enough. Could you give the committee the most recent statistics about waiting lists after this hearing?

Mr Macpherson: OK.

Ms Martel: With respect to the waiting list, you can't tell us offhand right now what we're looking at in terms of short-term, long-term or recovery anywhere in the province. You can't give us that right now.

You said that you are assuming that through mergers, regionalization, standardization etc you're going to be able to deal with waiting lists, or that's part of your strategy.

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Ms Ure: That is part of our dealing with it to date, accommodating the increased number of people we're able to deal with.

Ms Martel: What impact—and I don't know if you define it as a percentage—is that having on your waiting list right now, all of those tools?

Ms Ure: We can't estimate the percentage. All we can do is look at the fact that over the four-year period, there has been over a 60% increase in throughput, or people who have been assisted, helped, in the organization. But we wanted to give full disclosure and also say there was a 30% increase in waiting lists as well over that time period.

Can I say how much is due to any one intervention? At this point, I can't. That's why we did the cost work and the outcome work we're doing right now, so that in the future we'll be able to say, "It looks like here's what's happening." We could also say, "It looks like people need to try different interventions." So rather than have two leaders with a group, maybe one leader is less of a cost, and that may be one thing that continues to have the outcome effectiveness.

Ms Martel: OK, fair enough. But the ministry also identified that the waiting lists are growing because of insufficient system capacity and/or resources. So that remains, I'm assuming, in spite of everything else that's happening on the side.

Ms Ure: Yes.

Ms Martel: But you can't give us a real good indication of what the capacity might have to increase by in order to deal with waiting lists?

Ms Ure: I don't have those dollars.

Ms Martel: Could you get that for our committee? Could you send some information to this committee that would give us an indication, in terms of, I guess, the operating plans that you look at etc, of how much more capacity you would need to deal with waiting lists? I'm thinking of long- and short-term and recovery homes. It's possible to compile that for us, right?

Mr Andersen: Again, I guess I would just say that it's sometimes difficult to correlate it specifically to those things. We are trying, as we've been discussing over the course of the afternoon, a number of different measures to try to deal with the various pressures that are out there. They do overlap in a variety of areas, and we're looking at the substance abuse program in general to try to get at all the various areas. We've been dealing with some of the restructuring initiatives so far.

An assessment of capacity and a strict dollar value assessment—I'm not sure that is perfectly forecastable, as well. We'll see what we can do. It may not be as specific an answer as I think you're hoping for.

Ms Martel: There must have been something that led you to tell the auditor that waiting lists were growing because of this indicator. There must have been something in the system that would lead you to say that to him, that part of this problem was resources and part was system capacity. I'm assuming "resources" means staffing. Is that what "resources" means?

Mr Andersen: It would be broader. It would be dollars as well as staffing. The majority of the budgets would be going to staffing.

Ms Martel: There's no new capacity being built right now? I just want to be clear about that.

Ms Ure: It was back to the comment Mr Maves made, in terms of some folks having gambling as well as substance abuse. That would account for some increase. We talked about the co-morbidity. Some additional folks would be served that way, with the 45 counsellors across the province.

Ms Martel: But I also heard Mr Macpherson say that of that 60% increase in clients over the four years, most of that was not really gambling because that was just getting up and running, correct?

Ms Ure: That's right. It's just the co-morbidity, that in addition to gambling, they have substance abuse as well.

Ms Martel: So it's a factor, but the bulk of people waiting for service right now have either a drug or an alcohol addiction.

Ms Ure: They have that and they may have mental health or other issues too.

Ms Martel: I want to go back to this issue of where social assistance recipients are going to get treatment and how people on waiting lists are going to continue to get treatment when this initiative gets right rolling. Correct me if I'm wrong, but I think Comsoc has told you that they will be paying for their clients to access services. Is that correct? Is that how I should understand what's going to happen here?

Mr Andersen: It would probably be more accurate to ask MCSS the specific implementation questions. It's a bit difficult for us to answer on their behalf what the program intent is. But our understanding, what I said earlier, is that their program would be self-contained and supported while they access our funded agencies and our programs.

Ms Martel: I'm not sure if I understand "self-contained" or "self-supported."

Mr Andersen: Self-contained from a funding point of view.

Ms Martel: So the Ministry of Community and Social Services will be paying you for services for their client. Is that what that means?

Mr Andersen: Yes.

Ms Martel: OK. If you don't increase any capacity in the system—and it doesn't sound like that's underway at this point—how do you deal with new clients coming on who are social assistance recipients who have to have treatment in order to have their benefits continue, and your current waiting list, which you're going to provide to us?

Ms Ure: As Colin said earlier, we're looking at both. The Ministry of Health and the Ministry of Community and Social Services are in the midst of the business planning process, and we'll await the outcome of that. We're also looking at how agencies can work together. If there are any more admin efficiencies that can be gained from agencies combining together, that's yet another option.

Ms Martel: Agencies combining together is not going to give you more capacity.

Ms Ure: It may use dollars in different ways. If each of them has an executive director, then some of those dollars could be used more for direct treatment as opposed to some of the admin costs.

I was informed by Anne Bowlby, the senior policy analyst, that locally, MCSS and the Ministry of Health are working together, looking at what's happening community by community in terms of the need for additional spaces with MCSS.

Ms Martel: Can you folks guarantee to this committee that people who are on waiting lists right now are not going to be bumped off those waiting lists so Comsoc can have services for one of its clients in order to make their initiative work?

Mr Helm: The only thing I think we could say at this time is that our understanding is that Comsoc will be providing the resources and, in a way, contracting directly with the service provider to provide that service for their client. So it wouldn't be taking any services away from our clients. Comsoc would contract directly with a service provider to provide services, perhaps with new resources or staff, for the individuals that they refer there.

Ms Martel: What if the beds are full?

Mr Andersen: I think it's important to go back to a point that Scott referenced earlier as well, that a waiting list in itself isn't necessarily always the most perfect indicator of the full demand or need that's there. You have to look at the people who are on that on a case-by-case basis and make sure you're looking at the ones—doing the triage that he was referring to, with regard to people who need the services most at the particular point in time. I don't think it's really an issue of people being bumped off a waiting list; I think it's more important to make sure that people who are in the most desperate need or circumstances are getting the treatment they need.

Ms Martel: But your staff have already told me that they can't guarantee that if someone needed detox today they would get it, not anywhere in the province, and they certainly couldn't guarantee that for youth, because there is an appalling lack of services for youth. I go back to what the auditor said about waiting times in his 1999 report: for short-term residential facilities, the waiting times range from one day to 60 days, with the average being 22, and for recovery homes and long-term residential facilities, the waiting times range from one day to 76, with the average being 17.

Those two categories, waiting lists and detox, I appreciate, can go up and down because of that service. All of this revolves around bed capacity as well. If there's a waiting list, I'm assuming that's because there are no beds available in a short-term residential facility for someone to get in, or there are no beds available in a recovery home and long-term facility for people to get in.

So if there are no beds available, how are you going to guarantee that both these two sets of clients, which I firmly believe are now going to be set up as competing sets of clients, are going to get service? Who is going to get the service?

Mr Andersen: Again, what we have to do, in the context of our overall business planning for this year and next, is assess the impact of some of the measures that have been undertaken, that we've been talking about over the course of the afternoon, and as well, on a going-forward basis, look at some of those issues, the multiple pressures that are out there from various areas as well as the other funding priorities that the ministry is having to deal with. So it's difficult to really give you an answer right at this point in time, given that we're in the middle of our business planning process for the next number of years.

1530

Ms Martel: But you can confirm for us, Deputy, that you don't know right now from community and social services how many clients your facilities may need to have to deal with?

Mr Andersen: I don't have those figures and I don't know if we've had an estimate from the ministry of Comsoc or not. Have we an estimate from community and social services?

Mr Macpherson: No, I don't have that.

Mr Andersen: We'll see and we'll get back to you with what we can.

Ms Martel: That would be useful, and also if you can tell us when you anticipate those services will have to start to be available for clients. The minister announced in May that early in the new year they would be operating this in four municipalities. I've been watching but haven't seen an announcement as to which municipalities might now be affected. So it's not clear to me if this is now underway. Perhaps you can let us know if it is underway in some of your treatment facilities.

Mr Andersen: Another thing we should probably point out is, it isn't necessarily the case that there are just two sets of clients. Some of these people may already be in the system; they may be already looking for the services. So you can't really treat them as two distinct groups, and I think that's where some of the forecasting or predictive complexity is going to come into this, in trying to determine exactly whether some of those folks are already in the system, because we certainly wouldn't want to double-estimate, I guess, or count them twice.

Ms Martel: Let me go back to the issue of operating plans being approved. As the auditor pointed out, there was a significant delay in the ministry actually completing those, many of them just being approved when the fiscal year was almost over.

I listened carefully to what you said about the situation for this year and didn't get a clear sense that there was any kind of improvement. Am I correct in that assessment? Are you still at this point really in the process of finalizing operating plans for facilities for the fiscal year that's just about to end?

Ms Ure: For the fiscal year that we've completed, the operating plans have been completed. What we're doing to get ahead of the process is we've sent out the request to each of the agencies to submit their operating plans for the coming fiscal year. Those are due back April 4 or 5.

That will allow us to review them early in the year in order that we can get approvals out. That's the plan. So basically we're backing it up, getting it out earlier, so we can have the agencies know what their budgets are earlier in the year, which will be helpful to both board and staff as well as to us.

Ms Martel: Did you have to have a shift in your resources to allow that to happen?

Ms Ure: We reprioritized resources, yes.

Ms Martel: Is that going to stay in place then from this point on, those resources, to allow that to happen?

Ms Ure: That is our goal.

Ms Martel: Did you have to hire new staff or did you reorganize staff?

Ms Ure: We reprioritized existing staff in terms of what their functions were. Part of it is going back to things that are important. Developing an operating manual means that people don't call with as many ad hoc requests: "What do I do when? What form do I fill out? What do I do when I've got a new board member? What do I do when I've got a complaint?" Those types of things we're trying to systematize as well as we can, and also ensure that the time we're spending is going on key areas such as getting budgets out.

Mr Helm: Addiction operating plans are now on the same cycle as mental health and very close to the hospital plans. Within our division we're trying to get all of our reporting operating plans out within, say, a month's range time so it's all in the same cycle, district health councils have the complete picture around the same time for them to review and give comments back. So we're in that cycle and we expect to stay in that cycle now.

Ms Martel: One of the sections that gave me a fair bit of concern had to do with compliance reporting, because I understood this was—I don't want to use the word "mandatory"—in operation in the ministry and then changed in 1995. I believe you said that you had done five. I was assuming that was this fiscal year?

Ms Ure: That's right.

Ms Martel: Were all of those generated by complaints against the agency?

Ms Ure: No, they were not. There are a number of ways you can do reviews. One is if the agency requests it. If they are going through a major time of change and they are relooking at their goals and their mission, then we can be called in to do a review that way. If there's a complaint, we can do a review. Also, we do some just on a schedule as part of an ongoing accountability process.

Ms Martel: OK, so in 1999 I think the auditor reported that three had been done and all three were as the result of a complaint. You did five this year. Can you tell us what the breakdown was of the five?

Ms Ure: We think they were all complaints this year. All five of them were, yes.

Ms Martel: I misunderstood. I didn't think you had a periodic schedule for reviews; for visits, yes, but not for reviews.

Ms Ure: We try to do as many as our staff resources will allow us to do. We don't have X number that we

have to do each year, like the nursing homes or homes for the aged, for example, but it's just one of the tools that we use for looking at how programs are working.

The Chair: We'll have to leave it at that. Mr Maves.

Mr Maves: I actually remembered my question that I was going to ask before, so I will ask that one, Chair.

Interjection: That's encouraging.

Mr Maves: Yes, it is encouraging.

I want to follow up on the waiting lists because while I don't discount the importance of waiting lists and that when you have waiting lists and someone is in fact looking for a service, they are important and we want to get rid of waiting lists, I do know from being involved with the Ministry of Health that waiting lists can often be a misleading indicator.

For instance, there have been occasions when people have been on a waiting list for a long-term-care bed 20 times. In fact, it was a practice of some hospitals to put some of their patients on 20 different waiting lists for a long-term-care facility. There are other waiting lists which are similarly misleading or instances on why waiting lists are misleading. For example, I could be at home, hear about the fact that there's a long wait for a long-term-care facility, put my name on a waiting list, get offered entry and then say, "Well, no, I'm not ready to leave my home yet." So I know there are a great deal of difficulties with waiting lists.

On this issue of waiting lists, it's my understanding that, for example, if I'm waiting to get into a detox centre, I could indeed have my name on more than one waiting list for different detox centres, correct? They're nodding their heads yes, Chair.

Similarly, once I'm in a detox facility and I'm going to be in that detox facility obviously for a certain period of time going through detox, my understanding is that quite often my name immediately goes on a waiting list for an outpatient service once I'm done. Is that correct?

Ms Ure: That is not correct, but you can ask to have your name put on a waiting list or a list, or you can say that you need treatment right away.

Mr Maves: Right, so if I'm in a detox and I know eventually I'm going to leave detox and go to another form of treatment outside of detox, I get my name on a waiting list.

Interjection: For the program, yes.

Mr Macpherson: One thing we're trying to do is stop the revolving door of detoxes. One of the things that's starting to happen is 80% of clients entering the addiction system enter through detoxes. So while we have the assessment and referral service, another reason for the standardization of assessment is so that clients entering the detox system can get assessed there so that we can immediately start to try and match them where they need to go.

Mr Maves: So a lot of people on waiting lists could actually be receiving some sort of service at the time that they're on a waiting list.

Ms Ure: That's correct.

Mr Maves: Going back to my question that I forgot, there was a program under the gambling addiction portfolio where we worked with the casinos on problem gambling identification programs. I know we did that early on. I'm not sure if we are continuing to do that, if it had proven to be a valuable program, what the status of that is. I just wanted an update.

Mr Macpherson: That's under development. The Ontario Lottery and Gaming Corp is looking to do more in that regard. The Canadian Foundation on Compulsive Gambling did some work around that. It wasn't, I would say, really in depth; it was more on availability.

What we've done is, the helpline is posted visibly in the casinos now and at the racetracks. On every slot machine, there's a helpline sticker. I think what you're going to find over the next year or two is that there will be more and more of the—for the staff who work at casinos and the gaming venues to start early identification and learning how to intervene with a problem gambler.

1540

Mr Maves: In the auditor's report, he said he had concerns about the way facilities were funding and that the ministry should assess whether the current distribution of funds is commensurate with the value of the services provided, compare the cost to provide services among similar treatment agencies and so on. I think the response you gave was something along the lines that the regional offices are now administering this sector and therefore have a much better idea of who gets funding and stuff. Does that address the auditor's concerns or is there another way, which I missed, in which those concerns were addressed?

Ms Ure: We worked with the Centre for Addiction and Mental Health looking at an actual costing study because, as I said before, it's not possible just to say this program is residential, therefore they should get the same amount as another person who does X number of residential days. In the costing study, they looked at agencies in detail, took detailed time counts from them over a six-month period and then looked at how much time was being spent in various types of agencies with various types of programs. That's going to form the basis for the data system, and that will go right across the province. Then we'll know how much time is spent because of different treatments in different programs. Many of our programs cut across a wide range of treatment initiatives. So some short-term residential programs can be more intensive than others. That way, we can actually know what's happening within a program area. The board can also look at it and see if there are changes over time and what they should be doing with it.

Mr Maves: An earlier response leads me to my last question. You talked about the problem of a revolving door at detox centres. How are we measuring outcomes of each agency? Some agencies may have had more people come back to them. Is that a measure that they're not doing as good a job as other agencies? How are we measuring the effectiveness of the programs delivered by each agency?

Mr Macpherson: From a detox point of view, we do actually have a client satisfaction survey that was done in May 2000. The response to our withdrawal management system was quite positive in terms of the service and client satisfaction at that time. In terms of cost and outcomes, as we've said, we're just at the point where we've developed the software and the baseline data to really go forward and start measuring cost and outcome.

Mr Maves: I could go into a program and get surveyed and say it was wonderful when I left, but if I'm back in there again two or three times, the program really isn't that wonderful if the person keeps reappearing. There must be a way to measure that.

Mr Macpherson: That's why we've developed what we've developed, because with addictions the outcomes are so varied. A success could be a week clean, it could be total abstinence for the rest of your life, it could be not exchanging needles any more or not having unsafe sex, depending on whether you're talking about harm reduction or total abstinence. There's just such a range of goals and outcomes that we weren't able to do anything with that until we actually developed this software with DATIS and CAMH.

Mr Maves: I don't know why it would take software. I would think that we have a certain relationship with agencies over time and we would be able to determine in the instance of each agency, if their clients keep reappearing, that that agency is not being effective. I don't know why we would have needed software for that. We should have been able to measure those agencies for effectiveness by now with or without software.

Ms Ure: We have relapse measures, and that comes through the software, in terms of if they had a relapse, if they needed to go back, and that's a positive outcome measure, given that the detox is probably, in withdrawal management programs, one of the first entries into the system.

Mr Maves: Thank you, Chair.

The Chair: Thank you. Anyone else. Mr Gill?

Mr Gill: I have a quick question. The Ontario Problem Gambling Research Centre: how is that working? I understand it's the highest-funded centre of its kind in the world. How effective is it, and have they started funding projects?

Mr Macpherson: I'm not sure how it compares with the whole world. I know we're funding at around \$3 million and a little bit over doing research on an annual basis. I believe there are 27 different research projects that are underway in some form of state of completion: looking at treatment efficacy; differences in women versus men; why people gamble; there are a number of youth products—are the attributes on a ticket more drawing or seductive than another attribute on a ticket; various prevention initiatives. Yes, they are leading the way. The Ontario research centre is doing some wonderful research.

The Chair: Anyone else on the government side? No. Mr Patten.

Mr Patten: If I could come back to one area, Ms Ure. In response to Ms Martel's question about the options of finding resources for those who would be obliged to be tested and treated from the welfare side, community and social services, I forget who it was earlier who said that there was some indication from community and social services that they would share in any costs that might occur. Who is saying this from the Ministry of Community and Social Services? Is this just among your colleagues or is this a deputy, an assistant deputy? Is this official or is this unofficial in terms of sharing costs?

In other words, you don't want to get dumped on. You can't get dumped on, because you can hardly support what you have now. I bet you wish the minister were with you, because a lot of the questions you have to answer, you have to answer in the context that you know damn well you don't have the resources to do the job as you'd like to do it. That's my assumption. So I do not envy you sitting there having to answer some of these questions when they're really out of your hands. You don't have the resources to do some of the job. Now with the impact of the nature of the questions Ms Martel is asking, and you say there's some indication, is that an official indication from community and social services?

Mr Helm: It might be best, to ensure that we're accurate, for us to take that question back—I'm not sure what the protocol is—to try to get a statement from MCSS specifically in this regard. I think we can endeavour to do that.

Mr Patten: OK, good. In this whole treatment area, usually there are coalitions or groupings or a lot of the agencies and organizations get together and do best practices and all this kind of thing. Is there a group that gets together? What's the name of that group? Is it a federation?

Ms Ure: It's a federation, yes.

Mr Macpherson: The addiction system has seven umbrella groups. Each of the discipline areas has its own umbrella group. There's a fair amount of that going on, and there's a new group that's coming out. They're still trying to come together as a system.

Mr Patten: Could you give me a list of who those people are?

Mr Macpherson: Sure.

Mr Patten: I probably know some of them already, but since I was involved it has probably changed.

My worry is, and only because I've seen this happen, not by individual personal intent but just by the dynamics of government shifting priorities or cutting back and what have you, that community organizations fall by the wayside. My personal observation and bias is that we lose in communities by that because they tend to be closest to where the action is, they tend to not have the same demand on salaries as others have who work for big organizations or work in business or this sort of thing. It

worries me, and I think it weakens our communities when that happens.

So when I hear that that's one option of the possible—there may be two executive directors or administrations. I know that was only an example, and I'm not implying this would certainly be your intent, but it does indicate that the pressure can be put on by some of these organizations.

There are some organizations that I call GONGOs, which are government-organized non-governmental organizations, that are created because sometimes when government puts out that they want to go in a certain direction, there are people with expertise and they quickly organize and they create an organization and away you go. I don't call that a community-based organization.

There are others who get sucked in and take something because they believe they can make a contribution and are not aware of the threat to themselves, and that's what worries me, those kinds of organizations that might be multi-purpose but in good faith got involved, and then, uh-oh, all of a sudden now there's this pressure and they made a strategic organizational mistake in being dependent upon government, which any organization should never do, in my opinion. That's just my bias. That's why I raise this question. I would hope that you'd have some way of flagging that. The auditor, I'm sure, would not be pushing to say, "In the interest of efficiency, let's just reduce all these organizations and have just one or two," instead of 10 or 15 or whatever it is. It's a concern to me, because it has other implications.

Mr Macpherson: Historically, as part of what you're talking about, the OSAB has worked very closely with the field collaboratively on all the initiatives: Setting the Course, which is our underlying document around system reform. We worked together with the system, with the DHCs, with the community-based agencies. We still have a number of central initiatives that are membered by the community-based agencies. The rationalization teams last year were all community-based. The umbrella groups are very active. The federation is one of the major ones, and ADRAO, which is the Alcohol and Drug Recovery Association of Ontario, is very prominent. That addresses part of what you're talking about. It has been very collaborative and not us dictating, "This is what you need to do," that kind of thing. We recognize that the best practice and the knowledge is out there.

The Chair: Anyone else? No other questions?

Thank you very much for attending this afternoon. We appreciate the comments you've made, and we look forward to getting the various undertakings you've given here today. Thank you to all of you.

With that, we're adjourned until 10 o'clock on Wednesday morning.

The committee adjourned at 1553.

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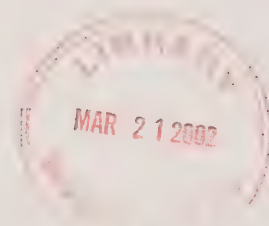
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LEGISLATIVE ASSEMBLY OF ONTARIO

ASSEMBLÉE LÉGISLATIVE DE L'ONTARIO

STANDING COMMITTEE ON
PUBLIC ACCOUNTSCOMITÉ PERMANENT DES
COMPTES PUBLICS

Wednesday 6 March 2002

Mercredi 6 mars 2002

*The committee met at 1050 in room 151.*2001 ANNUAL REPORT,
PROVINCIAL AUDITOR
MINISTRY OF FINANCERAPPORT ANNUEL 2001,
VÉRIFICATEUR PROVINCIAL
MINISTÈRE DES FINANCES

Consideration of section 3.07, community reinvestment fund.

The Chair (Mr John Gerretsen): I'd like to call to order the standing committee on public accounts. We're here today to discuss section 3.07 of the 2001 Annual Report of the Provincial Auditor, specifically dealing with the community reinvestment fund. We have with us today the Deputy Minister of Finance, Bob Christie, and a delegation with him.

Please start by making your opening statement, and perhaps introduce the other members of your ministry. It will be followed by questions from the members of the various caucuses. Good morning.

Dr Bob Christie: Thank you, Mr Chair. To my left is Liz Harding, who is a manager in our Provincial-Local Finance Secretariat, and Nancy Naylor to her left, who is the assistant deputy minister in the Provincial-Local Finance Secretariat.

I believe we've handed out hard copy, as well, of the slides. What I'd like to do here is provide an overview of the community reinvestment fund and some of the recent changes following the review of the fund that were under way when the Provincial Auditor and his staff came in to begin this audit. His report notes that that process was under way. The presentation will explain how it works and the kinds of changes that have been adopted since the review process.

The community reinvestment fund is part of local services restructuring, which was the first major reform initiative, in terms of provincial local service delivery, of its scale. It was implemented January 1, 1998, and involved the assumption by the local sector of a number of program costs in selected areas, which we'll note later. That was matched by residential education tax room that occurred from the province taking on the financing of education, and also from the provision of the community reinvestment fund. There was also transitional restructuring

and other kinds of assistance provided for the restructuring.

The community reinvestment fund is provided to balance the costs and benefits related to local service restructuring and to ensure that the exchange of services is at least revenue-neutral. The balance is achieved for many municipalities when they meet a certain level of savings. For many of them, it does not require meeting that level of savings to qualify, but we'll get into that a little later in the presentation.

Savings targets play a role. There was a good deal of discussion of them in the report, so I think it's worthwhile to spend a couple of minutes on them. All municipalities were expected to find savings as part of local services restructuring. I'm sure the committee will recall the process that all levels of government were going through in the mid-1990s in terms of trying to deal with fiscal difficulties, in terms of restoring the structure of their finances. All levels of government achieved, and had the target to achieve, efficiencies in the way they provided services, and it was expected that local governments would do the same. The targets in this case might almost be thought of as thresholds in the sense that they aren't something to be achieved by each and every municipality; they are levels at which qualification, in a sense, for the CRF begins. For small areas, less than 100,000, the target was 1.7%. To capture the fact that larger areas will have more diversity of services and more chance to achieve efficiencies through economies of scale, the target was 3.2% between 100,000 and 500,000 of population, and 4.2% for population over half a million.

The list of services that were exchanged is shown on this slide; as you can see, social assistance, child care, public health, land ambulance etc. These were costed at the time and were the basis on which the initial revenue-neutrality equation, if you like, was set. The next slide shows that structure, so, for example, if LSR costs were \$110 and the savings target was \$10, then there would be a target net of the savings of \$100. If the residential education tax room was \$75, then of course the CRF would have been \$25.

There's also some additional funding in the community reinvestment fund. There's about \$62 million in additional funding over and above the funding that's described by the previous equation. It's provided to address other government priorities, so there are objectives

that are related to but not strictly part of those of the community reinvestment fund.

The first one is what's known as the CRF bonus of \$21 million. In 1999, the province accepted a municipal proposal to share public health and land ambulance costs on a 50-50 basis. Because these are part of the costs that are addressed by the community reinvestment fund, without the bonus a large number of municipalities would have lost from the CRF what they gained from the change in funding for these services. That was felt to be inappropriate, so the CRF bonus was put into place to ensure that all taxpayers continued to benefit from that decision.

The second source is what's known as supplementary assistance, and this is provided to municipalities with relatively low assessment bases. Generally, these municipalities have a relatively large proportion of farm or forest properties, or they have quite a low presence of commercial and industrial properties, which tend to be taxed more heavily.

I noted earlier transitional funding for local services restructuring, and slide 10 shows some of the sources of that. There was a special circumstances fund to capture the fact that some municipalities may have encountered extraordinary circumstances in making the transition to the newly realigned services. There was a municipal restructuring fund to help municipalities that have restructured under the provisions of the Savings and Restructuring Act. It covered up to 75% of municipal expenses related to restructuring. There were highway transfers. There was \$335 million in funding for the transfer of a number of provincial highways—

Mr Gilles Bisson (Timmins-James Bay): A \$50-million shortage.

Dr Christie: Sorry?

Mr Bisson: You said \$335 million.

Dr Christie: Yes, OK, and \$50 million for a three-year maintenance allowance and assistance for bridge construction. There's also the municipal capital and operating restructuring fund for transportation, non-profit housing, and water and sewer initiatives.

Mr Bisson: Those were one-time as well?

Dr Christie: Yes. The consultations that I referred to earlier were undertaken in the summer of 2001. All municipalities were invited to participate. They were invited to give us written submissions. We received about 125 submissions. There were regional workshops attended by nearly 90 municipalities and there were round-table discussions with associations. Workshops were held pretty much across the province: Kingston, Ottawa, GTA, Thunder Bay, Sault Ste Marie, North Bay, Windsor and London.

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Eight-two per cent of the municipal respondents advised us that they would not be favourable to significant change in the current system. They certainly wanted administrative improvements to the CRF, but their concern certainly at the moment was for stability in the financing that the CRF represents. So their preference

was to leave the program in its current form in order to achieve that stability.

The administrative improvements included making it more timely—this was of course a concern echoed by the Provincial Auditor; improving on the transparency and consistency of data, also noted by the auditor's office; and providing stability and predictability. The province accepted that advice. The CRF continues to be linked to local services restructuring. Improvements have been made to address timeliness, data transparency and stability. With respect to timelines, there will be early notifications of CRF allocations each fall. There will be year-end reconciliations in the fall. If there are decreases, there will be adjustments made in the first quarter of the next year.

With respect to data transparency, updated costs will be included for cost-shared and assessment-based costs using provincially verified numbers. Trading sessions for provincial regional offices and municipalities will be supplied.

As I noted, the dominant theme and the dominant piece of advice received from municipalities in this regard was toward stability. One of the things that meant was that we would not update fully devolved programs or point-in-time transfers, including residential education tax room. The CRF bonus and supplementary assistance would be retained. With the announcement of provincial transit funding, there was the creation of a \$14.5-million transit bonus for the same reason as the initial CRF bonus, which was to assure that all municipalities benefit.

The reporting requirements adopted for this year include assuring accountability, while avoiding duplication, reducing red tape and streamlining the reporting process. Certainly one of the things we've heard from municipalities, both on this program and on property tax overall, is their desire that we work wherever possible to reduce, minimize compliance costs, and we will be doing that with respect to improved accountability. Municipalities also must submit a council resolution and various tax and financial data. Some of the contents of those will address some of the comments made in the report of the Provincial Auditor. The decision was, I think, well received by municipalities, who have a lot on their plate, as do all levels of government. I think they were pleased that their desire for stability had been heard.

With respect to how this addresses the Provincial Auditor's report, we just tried to show here graphically a little bit what those recommendations were. I'll just give you a short sense of what we've done in each of these areas. Some of them will be obvious from what we've said to date.

In terms of assessing changes in local service delivery needs and municipal taxing capacity, what we heard as part of the consultations was that people were happy with the structure of the CRF per se but they wanted some of the supplementary programs, particularly the supplementary assistance which addressed the issue of need and taxing capacity—primarily taxing capacity—maintained as part of the program portfolio, if you like.

The need to review the currency of costs that go into the formula, the reconciliation of costs and payment adjustments, implications of changes in assessment etc: as noted, the LSR program costs will be updated daily—excuse me.

Interjection.

Dr Christie: Yes, I hadn't told you about that yet, had I?

The LSR program costs will be updated annually. As I noted before, this will be for the fully devolved program, and the nature of what we will be updating was something that was under discussion and came out of the consultations with the local sector.

Conducting regular reviews of the bonus and supplementary assistance is typically done each year as we review the structure and particularly the amount of the program as it pertains to the next year, and that takes place through the existing cabinet review process. There was special effort this year in terms of reviewing these matters as part of the discussions with the local sector. But it would be looked at every year, in any case, as part of the determination of the annual amount.

With respect to reviewing municipal finances, starting in 2002 we will be requiring municipalities to provide a council resolution, as we noted before, stating that community reinvestment fund monies will be used for the benefit of local taxpayers, which is clearly the objective here.

Together with the Ministry of Municipal Affairs and Housing, we will be reviewing the financial information returns that the municipalities give us to provide a detailed description of those expenditures.

With respect to tax increases and the recommendation that we look at those that occurred between 1998 and 2000, all municipalities with tax increases in 2000 were asked to provide an explanation and supporting documentation of why this was necessary, and that was undertaken by the two ministries in the summer of 2000.

With respect to windfall gains and the recommendation in that regard, the tax practices of municipalities, including those that don't receive CRF because their residential education tax room is high enough, their tax activities are monitored through this program and we take note of the uses, particularly on the tax side.

With respect to reserve funds, beginning in 2002 we have streamlined the reporting requirements. The council resolution that we noted, among other things, will state that the CRF funds will be used for the benefit of taxpayers. How they do that will be their decision but they will be disclosing the information to both the Ministry of Finance and the Ministry of Municipal Affairs and Housing.

With respect to recovery of overpayments, in early November 2001 we told municipalities that there would be a reconciliation in respect of 2001 and that we intended to recover overpayments if they arose.

Finally, with respect to timeliness, municipalities were informed of their 2002 allocation in the fall of 2001, and

we will continue that practice of informing them of their allocation before their calendar year begins.

With that overview and that commentary, I'll turn it over to you.

The Chair: Thank you very much. We have about 50 minutes left in this morning's session. We'll start today with the government side, so about 16 or 17 minutes per caucus in the first go-round.

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Mr Ernie Hardeman (Oxford): Thank you, Deputy, for the presentation. I guess we all recognize the magnitude of the relationship between the city of Toronto and the province of Ontario as it relates to our realigned services and joint services that are being provided for the citizens. We've heard a lot of discussion about the positives and negatives of the city. I noticed in reports in the last number of days that in fact the problems they're having with budgets in the city of Toronto seem to somehow still relate, at least in the paper, to the transfer of services in 1998.

Could you fill me in, from the ministry's perspective, as to where we're at with the local realignment of services with the city of Toronto. The target and the goal of this whole process was to provide more effective and efficient services and to make sure that we weren't passing a problem from one level of government to the other. What has happened in the city of Toronto, from your perspective, to make this thing work?

Dr Christie: From our perspective, the city of Toronto experience as we have observed it within the framework of the current community reinvestment fund program—as a relatively large municipality, quite obviously one of the largest, their savings target was 4.7%. They didn't require anything close to that for revenue neutrality, but nevertheless the indication, because of their size—I had the 4.7% there. Excluding savings, there was a shortfall in the first year, in 1998. But our information indicates that that difference had closed quite substantially in 1999 and 2000 to about \$20 million in each year.

We have certainly looked at the activities of the city in trying to find savings, and we've looked at their reports of savings achieved through amalgamation and other activities. On the amalgamation side alone, the report that the city has put forward, their June 1999 report on the status of amalgamation, reported annual savings of about \$120 million in 1998-99, and an additional \$29.3 million expected in the year 2000. That level of savings is well in excess of any cash shortfall, excluding the savings. I think their reported savings in the next year were \$136 million.

As best we can determine now, four years after this occurred, the savings being achieved by the city are significantly in excess of any difference in costs that we can measure. I think those costs themselves have been looked at a number of times by a number of people, and we're quite confident in those numbers.

Mr Hardeman: On that same question, and obviously we're talking here today about the auditor's report and

the CRF funding, there have been a number of other areas where the province has been able to assist the city in some of their activities, and I think some of them relate to some of the different envelopes in the CRF funding that you mentioned in your report, and there are some others. Could you just give me in ballpark figures where the money is coming from and where it is going?

Dr Christie: Sure. In addition to the annual CRF process, there has been a substantial amount of additional assistance to the city in the last several years. Close to \$1.5 billion in grants was provided; \$829 million to support the TTC at the beginning; an additional \$50 million announced about a year ago in support of the TTC, a \$50-million grant in 1998 to help with transportation and communication projects, \$500 million committed for waterfront redevelopment, \$53 million for municipal capital and operating restructuring through the previously mentioned MCORF program, and there has also been \$200 million in interest-free loans provided to the city. In addition, the province's program of reducing business education taxes and residential education taxes has meant very substantial savings for both residential and business taxpayers in the city of Toronto.

Mr Hardeman: Just one more question, and then I'll turn it over to my colleagues. Obviously in the auditor's report Mr Peters comes out with the conclusion that if we don't deal with the savings—over the three-year period, I believe, it's \$142 million short, somewhere in the \$140-million area over a three-year period. Have we got the information that would support the fact that they were able to find sufficient savings, that in the services we're talking about there are sufficient savings to cover that, that at the present time they're not—if we were to do a re-evaluation of the total package today based on the same parameters only in 2001 figures, could they actually make ends meet and not be detrimentally impacted by this CRF funding process?

Dr Christie: As I indicated, the reports we have—we don't independently audit the city of Toronto ourselves, nor, I'm sure, would they see us having a role in doing that. I doubt there has really been that kind of review of their finances. What we've relied on, in part, has been both the undertaking before amalgamation—there was an estimate from the mayors of an ability to save, I think, between \$185 million and \$240 million per year from amalgamating services—and the two reports I mentioned from the Toronto CAO. The December 2000 one identifies cumulative savings of \$305 million between 1998 and 2000, which is significantly in excess of the \$140 million that is identified in the auditor's report.

Mr Raminder Gill (Bramalea-Gore-Malton-Springdale): Thanks again for coming by this morning. I happen to live in the regional municipality of Peel. We haven't heard them complain about any savings they cannot realize, or that they were overimposed upon. I know the biggest municipality, Toronto, is always complaining that they were imposed upon by this 4.2%—I think you mentioned 4.7%, but I think it was 4.2%.

Dr Christie: I'm sorry if I misspoke that.

Mr Gill: That's OK. In your opinion, what things is Peel perhaps doing better than Toronto, or how can they benefit from sharing those good, practical experiences?

Dr Christie: Certainly the implementation of best practices can be very powerful in saving money for the cities. There are a number of examples of the adoption of best practices, where cities have very effectively done this. For example, Burlington and Halton region entered into a joint purchase and service agreement for hardware and software consulting services etc, where they were able to extract savings so that the city was able to acquire access to the region's software, which would have been much more expensive if they had done it alone. The region of Peel has a managed competition program, which it's developed in order that the public sector will have a continuing check from the private sector as to the cost-efficiency of what they're providing and the region can be assured they are receiving cost-effective services. It allows municipal staff to bid against other service providers to determine who will provide the defined package of services.

I understand that the Ministry of Municipal Affairs and Housing, in association with AMO, will be promoting the adoption of best practices. I think they recently announced establishing a virtual centre for best practices, and that, I think, should be helpful in the broader adoption of these by other municipalities.

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Mr Gill: In one of the slides—I guess it was the last slide, slide 20—on the ministry's action since the auditor's report, the first bullet point, "Determine why municipal tax increases between 1999 and 2000 were necessary," you've got a checkmark against that. Can you explain what that means?

Dr Christie: What we have done in that regard is inquire into the reasons for the tax increases in all those municipalities that did increase taxes in the year 2000. Those municipalities were asked to provide an explanation for their tax increase and supporting documentation of why this increase was necessary. Obviously there are different factors in each case, but that material was provided and reviewed. Perhaps I could ask Liz or Nancy to expand on the information.

Mr Gill: My concern is, are you satisfied with the reasons, or are you happy that some reasons are given?

Dr Christie: The first purpose of this, I think, is to ensure accountability and disclosure around these matters, particularly when substantial tax room has been freed up by the province for the local governments. The disclosure is critical. We certainly were looking at it to see if there were trends. I don't think we've identified anything systemic in the tax increases. I think the purpose of this, from our perspective, and really underlying the LSR program initially, was to permit more cost-effective delivery of public services at the municipal level and create the opportunity for municipalities that did adopt cost-saving measures to actually lower their taxes. We were certainly interested in instances where that didn't seem to be

happening. Perhaps you could expand on that, Liz, if there is more information.

Ms Elizabeth Harding: Sure. The Deputy Ministers of Finance and Municipal Affairs and Housing, in the summer of 2000, required that municipalities provide an explanation of extenuating circumstances to support this kind of action. We have reviewed those. Follow-up contact has been made by regional staff at the Ministry of Municipal Affairs and Housing with those municipalities that had tax increases. We respect municipalities' obligations to make these decisions, but we certainly were asking for an explanation and followed up to make sure we had one in cases where there had been a tax increase.

Mr Gill: You're satisfied with the reasons they gave you, or are you just happy to have them?

Dr Christie: I think the latter is probably the best description of our role in this.

Mr Gill: I think my colleague has some more questions.

The Vice-Chair (Mr Bruce Crozier): Mr Dunlop, you've got a minute and a half, but there will be another round as well, so go ahead.

Mr Garfield Dunlop (Simcoe North): I've got a couple of quick questions, Dr Christie. In the consultations, you mentioned 82% of municipal people basically support the CRF model. We're going into the fifth year of it, and my question on that is—

Mr Richard Patten (Ottawa Centre): By the way, did you determine that correctly?

Mr Dunlop: It's on one of the slides.

Dr Christie: Because of their desire for stability, they preferred the model we have now over the models we discussed with them. There were several alternative models put forward that would have been more like an equalization program etc, but this is the one they preferred.

Mr Dunlop: He used a minute of my time, so I'll take a minute of his.

The question is, we're going into the fifth year of the CRF. What type of increases have we seen across the province? I know that in my region I have not seen a lot of large tax increases of any kind. It's been 1% or 0.5%, that type of thing. That's one question. If I can just follow up with the second one right now, will the \$100 million we started announcing just recently for the transit renewal program have any impact on CRF allocations for next year?

Dr Christie: It will have some impact, because it is one of the costs that go into the calculation. The reason the CRF transit bonus was introduced was to allow the municipalities that would be affected by that not to take back from the CRF what was being given in the transit announcement. That's the goal of that extra grant.

With respect to the first one, I'll ask the experts here what province-wide information we might have on that. We certainly monitor it on a municipality-by-municipality basis, but I'm not sure how much roll-up we've done of that.

Mr Dunlop: It may be an unfair question too. I just was curious, because I haven't seen a lot of huge increases of any kind in the Simcoe county area. They talk about downloading, but I haven't seen it affecting the tax bill.

Mr Crozier: They see it in service cuts.

Mr Bisson: They just see it on the service side.

Mr Dunlop: We saw it on services through 1985 to 1995 too.

The Chair: We can get into an extensive debate this afternoon, but we'll listen to the answers now. Go ahead, ma'am.

Ms Nancy Naylor: I'll answer very briefly, in light of the time. It's fair to say there haven't been a large number of municipalities in Ontario that have implemented tax increases. As the deputy said, as ministry staff in both finance and municipal affairs have reviewed those, it's clear that the councils have put a lot of thought into the necessity of doing those, where that has been required. Their explanations to the ministries have often been accompanied by a fair amount of explanation about the cost-efficiencies that were pursued prior to moving to a tax increase and also the value to the community of the public services that were meant to be supported by the tax increase.

The Chair: We'll move on now to the official opposition.

Mr Patten: This becomes very complicated to figure out. I'd like to know whether you know at this point, after four years, how much the province has saved in transfer payments. On a net basis, what is the financial position of the province related strictly to municipalities on transfer payments and programs? What is the net situation for the province's financial position?

Dr Christie: I'll ask the folks here if they've done a full roll-up of that. In doing so, we'd have to include the transition funds we talk about and the enhancements that are above and beyond the CRF as well. I don't have the number off the top of my head, so I'll ask if Nancy does.

Ms Naylor: I think it's fair to say that the province's position is that in the trades the province took on more than the municipal sector was asked to assume. Our best numbers at this point aren't final, because we'll be reconciling them. But in terms of the net LSR costs to municipalities, they remain very stable at about the \$2.5 billion that was originally intended as part of the trade. In terms of what the government took on, the government assumed an additional \$2.5 billion of education funding responsibility that had previously been carried by the residential education tax base. In addition, the government committed to provide the community reinvestment fund on an ongoing basis. As of the 2001-02 budget year, that figure was \$561 million. On a net basis, the net LSR costs to the province were closer to \$3 billion. So the province's net costs—sorry, the total costs that the province assumed were about \$3 billion, so the net cost was about \$460 million.

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Mr Patten: So that means that it really is costing the province, out of its annual budget, more money than it did when they implemented this arrangement. Is that what you're saying?

Ms Naylor: I think what I'm saying is that the province has assumed more responsibilities out of this trade than the local sector was asked to assume.

Mr Patten: I know, but financially—well, I'm not sure either is true. They've accepted less responsibility—more control, perhaps—but I think less program responsibility.

What I'm trying to get at is that one of the objectives of the government was to find money to give a tax break and, at the same time, balance the budget. They looked at increasing revenues, and they've got to look at, "Where can we cut costs?" Transfer payments make up a major part of the expenditure side of the budget. One of the areas to look at was, "What do we transfer to the municipalities, and what are the arrangements with our programmatics, and how can we get a better deal?" or whatever it is. So you devise a whole program on how you can make municipalities more efficient.

I'd like to know what, then, has been, as far as you can tell, the improved fiscal position of the province's budget by virtue of this exercise.

Dr Christie: If that is a cumulative number, we'd have to go back and roll up the various components. Because of the way it is structured, the consideration of the additional—as Nancy noted, the LSR cost side that has been absorbed at the municipal level has dropped in the last few years and the province has put additional money in through a number of these restructuring initiatives and through several supplementary funds. My understanding of the numbers is that the province's position, certainly on an annual basis and I'm sure on a roll-up basis as well, would be that it would be a net cost.

As I recall, at least, the purpose of local service restructuring was to create opportunities to better array the provision of public services, and certainly the assumption by the province of education funding responsibilities was a pretty significant part of that. Within that, the community reinvestment fund had as its purpose continued revenue neutrality in the sense in which it's implemented in the program, as we've described.

Depending on how you measure it—as you noted, this is very complicated and you can measure it any one of a number of ways. I'm quite sure that we're talking about a net cost to the province, not a saving.

Mr Patten: I'd like to ask you for an estimate of that at some point. If indeed at the end of the day this is more costly to the province and the pattern for municipalities, at least the larger municipalities, is actually tax increases—I pay more municipal taxes now than I paid before. A reassessment system was put in—I'm talking about municipal taxes—that increased the residential tax, and then there was the stated 10% deduction. I'm talking about Ottawa, in my situation. The municipality is saying

that they were behind the eight ball by something like \$70 million or \$90 million in this whole exchange by virtue of what was now imposed upon them, the target that was set by the province—in their view, somewhat arbitrarily.

The increase in user fees I think is universal pretty well around province. Things that contributed to families, especially low-income families, for baths and little swimming pools and the use of fields, now there are charges all over the place. While it's only \$2 a head for some of these costs, it adds up on a summer afternoon for a mother who doesn't have a cottage, who doesn't have a car and tries to bring her three little children to the pool. That's \$6, just for that particular period. That's pretty tough for someone on meagre wages. So there are increases there, and you can see the pressure; again, my municipality is going through it and so is Toronto.

I suspect the larger municipalities are facing major problems. I'd like to ask you if you have a fix on that. The 82% figure—whenever I see that, knowing something about statistics, you give a percentage because 82% keeps out, what, 15 or 20 municipalities or whatever it is? It's probably the larger municipalities, I would suspect, that are having the greatest difficulty with this overall program.

Just in terms of larger municipalities—let's say the top five, the top 10—what is the status with them? How many of them are in that 82%?

Dr Christie: Perhaps I'll ask Liz, who I think participated in the consultations, to address that.

Ms Harding: The 82% is 82% of the 125 municipalities that provided written responses. I'd have to check to see whether the larger ones were included in that, but that's something that we can check.

Mr Patten: Could you check and let me know that? I would suspect that Toronto is not in there, Ottawa is not in there, London is not in there—your top five, 10 top. I'd be surprised if more than two were in there.

I have some more questions, but I'll wait until this afternoon. I'll pass it over to my colleague.

Mr Crozier: I'd like to go through your presentation and ask a few questions relative to it. To begin with, you said that it's the first major reform initiative for municipalities to manage and fund key services. What was the initiative behind this reform initiative? Who really came to the fore and said, "This is something we have to do?"

Dr Christie: There had been discussions for several years of what used to be called "disentanglement" being pursued by both levels, so it has been an ongoing topic of discussion. I'll ask my colleagues to comment as well.

This was looked at, for example, by Mr Crombie, who was asked to look at how this was being done. It was commented on and discussed in depth with the municipalities. As I recall, and I'll stand to be corrected, the initial proposal or the initial model here was one to which the municipalities said, "No, we'd like to do it another way. We would like to have a different mix and a different set of configurations." So the initial model that had been discussed was actually replaced by the one that

the municipalities had suggested. That was then the basis of what went forward for implementation.

I'll ask Liz or Nancy to add anything that they have to that.

Ms Naylor: It is fair that the impetus for going forward with local service realignment came at a point in time when the government was looking at a number of interrelated problems. There were problems in education finance, there were problems in property tax policy, there were problems in the property assessment system that had been long-standing and that municipalities had raised a number of times.

As the deputy mentioned, there had been attempts in previous years to look at the arrangement of expenditure and program responsibilities on the municipal government side and the provincial side and whether or not that could be streamlined or sorted out in a more efficient way.

A number of reports had converged recommending that the government act on a number of these problems, and around the same time they did ask Mr Crombie to take on what was then known as the Who Does What commission. As a result of his group's recommendations, the government put forward an initial proposal in January 1997, which was subsequently modified to reflect some municipal advice in the spring of 1997, to implement what is effectively the trades that are in place today, with some modifications in the subsequent years.

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Mr Crozier: Do you see this as going on? Unlike some of the suggestions the government has made where there would be a sunset clause, I don't recall a sunset clause being part of the services improvement act. Do you recall whether there is one or not?

Dr Christie: Certainly with respect to the community reinvestment fund, I don't believe there's a sunset clause. I'm sure that municipalities would have made us very aware of their concerns about this program sunseting, because it's a very helpful program and it's concentrated on the areas, as we noted, with the lower assessments and some of the higher needs. Because of what it's intended to address, I don't believe the program is sunsetted.

Mr Crozier: So just help my memory, then. Are both the local services realignment and the community reinvestment fund part of the services improvement act?

Dr Christie: I believe so.

Ms Harding: If I could answer that, the community reinvestment fund isn't founded in the legislation. It acts as a balance to the programs that are cost-shared through that legislation.

Mr Crozier: Thank you. I didn't think so. So the services improvement act really involved the local services realignment. Of course, we all understand that a sunset doesn't necessarily mean something is going to end; it only means it's going to be looked at. So do you see any review of this, or is it just to go on forever?

Dr Christie: As I noted, it was reviewed this year, and we talked about the outcome of that review. It's looked at internally every year as part of the business planning

process and part of the cabinet approval process. I think our approach to this has been to work as far as possible with municipalities to have this be as functional and useful for them as it can be within the purposes of the program as laid out. I would think that if municipalities wanted to discuss a different model—as I said, we talked about two or three models with them last year. If at some time in the future they expressed interest in revisiting those, I'm sure that it would be reviewed again, and I'm sure it will be reviewed again, as are all government programs.

Mr Crozier: As we go through this exercise, we see various words used. In a presentation by the Thunder Bay regional workshop that was given to us, under "Resource Equalization Grant" it says, "The purpose is to equalize the fiscal capacity among municipalities." Then we see information here where the ministry says that equitable treatment is not an objective. So we've got "equalize," we've got "equitable" and we have "neutrality," where neutrality is to be achieved, and then in your presentation today it's to "balance" costs.

Now, considering all those words—"equalize," "equitable," "neutrality," "balance"—which is it?

Dr Christie: The word "balance" is synonymous within the program with "neutralize." One achieves neutrality by balancing the costs and the benefits. So I don't think those are inconsistent.

The presentation that you are referring to and the notion of a resource equalization grant is one of the options; it's one of the alternatives to the community reinvestment fund that was discussed with the local sector. It's not currently what the community reinvestment fund does. So the "equalization" and "equity" words for which you're looking for a place would pertain more to a re-designed grant that focused on equity, which the current program doesn't do. The sense of "equity" in the current program is that it balances or provides revenue neutrality for municipalities as part of the LSR trades.

The Chair: We'll have to leave it at that for now, Mr Crozier, and go on to Mr Bisson. But I'm sure we'll get back to it later on.

Mr Bisson: First of all, I have just a point to the clerk. I notice we don't have translation devices here for the—

Clerk of the Committee (Ms Tonia Grannum): We do.

Mr Bisson: We do? Where are they? OK. Because I have some questions specifically to represent the communities in my riding. In the majority of them the administration is in French, so just to make sure they have them and I can come back to those in a minute.

Let me start with the first one. First of all, welcome. How does it feel walking into the lion's den?

Dr Christie: We'll see.

Mr Bisson: OK. Let's put this all back at the very beginning. In the auditor's report on page 10 it says in the conclusions, "We concluded that the ministry did not have adequate procedures to measure and report on whether the CRF," the consolidated revenue fund, "was meeting its revenue-neutrality objective. In addition, we

found that the CRF did not ensure the ongoing revenue neutrality of the LSR initiative," which means all those downloaded services that the municipalities now have to do that the province used to do or used to share with the municipalities. What's interesting is that the end says, "We also noted that ensuring that all municipalities are treated equitably is not an objective of the CRF or the funding formula," and that's according to the stated response from the Ministry of Finance.

Is it still your position that the objective of this CRF fund is not to treat municipalities equitably? Yes or no?

The Chair: We're talking here about the community reinvestment fund?

Mr Bisson: I'm reading out of the auditor's report.

The Chair: I believe you said the consolidated revenue fund.

Mr Bisson: Oh, sorry, I did. CRF to me always meant that big pot of money. Thank you very much for the clarification.

Dr Christie: The objective of the community reinvestment fund is to provide revenue neutrality for municipalities in aggregate and individually within the LSR trades.

Mr Bisson: So revenue neutrality but not necessarily equity. What intrigues me is that in your response to the auditor you're saying, and this is in the auditor's own words, "We also noted that ensuring that all municipalities are treated equitably is not an objective of the CRF." That's according to the ministry. Do you still stand by that, or have you corrected that position?

Dr Christie: We have said what the purpose of the community reinvestment fund is.

Mr Bisson: And it's not to treat them equitably?

Dr Christie: In fact, that option, through various kinds of approaches to equalization, was put in front of municipalities last year as one of the alternatives to the community reinvestment fund and, as noted, they preferred the current structure, which is focused on—

Mr Bisson: I just want to say you are dancing better than our gold medal winners at the Olympics—and I think they did a wonderful job. My question to you is, do you still stand by that comment in the report, that it is not meant to be equitable? That's what I want to know, that the CRF is not meant to be equitable.

Dr Christie: I don't think we've changed our position on anything.

Mr Bisson: So basically the comments made by the auditor reflect the position of the ministry, that it's not to treat municipalities equitably?

Dr Christie: The auditor's report talks about what the purpose of the community reinvestment fund is and, depending on how you define equity, its purpose remains what it was at the time of the Provincial Auditor's report.

Mr Bisson: I'm going to go back again because you're still skating as well as that gold medal pair. I just want to get this clear. I just find it somewhat amazing that the Ministry of Finance would say, in response to the auditor, that you basically don't see the CRF as a fund that should treat municipalities equitably.

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Dr Christie: The concept of equity and the application—the community reinvestment fund is something that is applied equitably; that is, it's applied consistently to all municipalities.

Mr Bisson: But in the end it may not be equitable, is what you are saying.

Dr Christie: There's not a concept of equity per se built into the program. The program as structured addresses revenue neutrality, and as I indicated earlier when asked about changing the structure of the program, people preferred the current structure.

Mr Bisson: But in the end, you would agree that your position is that the CRF in itself does not treat municipalities equitably. Municipality A and municipality B may be better or worse off at the end of this exercise, depending on where they happen to be with the municipal assessment or other costs, right?

Dr Christie: Actually, Liz, I think you had something to add to that so I'll ask you to comment and then I'll come back in if there continues to be a question.

Ms Harding: I'll try.

Mr Bisson: I hope you're at least as good as the women's hockey team.

Ms Harding: Don't count on it.

What we made clear to the auditor when he visited us is that the principal objective of the community reinvestment fund is revenue neutrality. It's equitable in that it's applied consistently to all municipalities. You asked if some might be better off and some might be worse off. The point of revenue neutrality is that no one is worse. CRF ensures that the LSR is at least revenue-neutral for everyone. Some, however, as we've said, are better off.

Mr Bisson: That's right, and some are worse off, obviously. That is implied.

Ms Harding: No, it's revenue-neutral.

Mr Bisson: Well, some are better off depending if you're one of the 72 communities whose municipal assessment—anyway, we're not going to get into that. The point is, in the end, not all municipalities are treated equally based on the CRF and other factors, right? That's what you're basically saying.

My question back to the deputy is, I find it interesting that the Ministry of Municipal Affairs, in their estimates briefing book—and I refer you to page 86—goes on to say, "The community reinvestment strategy provides support to municipalities in implementing the realigned provincial-municipal services and ensure that the benefits are distributed equitably across the province." I find it interesting that municipal affairs is saying one thing and you're saying the other. So which is it?

Dr Christie: I can't speak for the Ministry of Municipal Affairs. My interpretation of that would be that by assuring revenue neutrality, the benefits in terms of the capacity to make savings are available to all municipalities. I think as well I'd supplement that with some of the additional funds that were added that we described that address specific problems that may have existed—

Mr Bisson: But my simple question is, has the Ministry of Finance talked to the Ministry of Municipal Affairs in regard to making sure that you both have the same policy when it comes to the implementation of the CRF?

Dr Christie: I'm not aware of any differences in policy in that regard.

Mr Bisson: I want to go to the auditor on this. At the end of the day, as we well know, it meant that for some municipalities that ended up on the plus side of this because of the assessment base, they have a little bit less trouble trying to make ends meet at the end of the year to pay for services. For other communities, such as Toronto, it's one heck of a mess in the sense that you're having to make the decision between raising municipal taxes and at the same time reducing services in order to balance out, which is a municipal assessment problem because of the new municipal assessment system. Some are winners, some are losers.

The downloading exercise, as we like to term it—you call it something else—has not been revenue-neutral for some. On top of that, amalgamation, for example, in the city of Toronto or Ottawa or elsewhere has meant costs as well. So overall, it hasn't been, because some municipalities are far worse off at the end of this process than others. Toronto is probably one of the worst off. There are other communities in my own riding that probably ended up not positively but at least not as negatively affected.

My question is to the auditor. Am I understanding correctly that there seem to be two different positions here between what municipal affairs is saying and what the Ministry of Finance has responded to you when it comes to the issue of whether municipalities are being treated equitably on the part of the CRF?

Mr Erik Peters: We became aware of the municipal affairs estimate only this morning, only when the researcher put the material together. It struck us that the word "equity" was used in theirs, while the finance objective was strictly on the revenue neutrality. One of the areas that was of concern to us was that in the calculation, at least when we looked at it, the savings target was assumed as achieved in the calculations, and that raised in our mind the question of equity. That was the origin of our concern about equity. Our concern, when we looked at the savings target, was that the savings targets were really not set based on analytical and empirical information that was available at the ministry.

Mr Bisson: Chair, do I have time for a second question to the auditor before we break? I can't see the clock from here. Do I still have time?

The Chair: Yes, you have about three or four minutes left.

Mr Bisson: OK, I can do this to the auditor. In looking at your report, basically as I understand it, you say, "Here are all the recommendations that we are giving to the Ministry of Finance to make things better," after the auditor's report came out. They said, "Yes, we agree with all those recommendations and we'll move on them, but

we wanted to do a review." We now hear from the ministry this morning, coming in, they reviewed all of those issues. In your mind, does that respond to your concern about not hearing back from the ministry as to where they were at with your recommendations?

Mr Peters: That's really a matter of timing. This is certainly the status that the ministry indicates now. Our first look-see will occur in two years when we do the follow-up. So we accept that as their presentation.

Mr Bisson: Were all of your recommendations covered here this morning by way of the presentation, or were there some that were omitted?

Mr Peters: Certainly every one of the recommendations was covered and there was action indicated by the ministry.

Mr Bisson: Now I go back to the deputy, which brings me to the LSR. In the downloading exercise, as I like to call it—and you'll call it something else; one calls it "tomayto," the other calls it "tomahto"—municipalities were transferred services that used to be either wholly or partly paid for by the province and are now transferred or downloaded on to the municipalities. Up until now, when you calculated the CRF, you froze your calculation based on those downloaded costs in the year 2000. I noticed in your presentation this morning that you're saying now you're looking at some other mechanism in order to reflect today's cost of those downloaded costs. Can you tell us where you're at with that? That's extremely important to our communities.

Dr Christie: We're entering into the technical side in which Liz is more proficient by far than I.

Ms Harding: It's true that while the review was underway, costs were maintained at 2000 year-end levels. Following the review, when it was determined that this was the model we were going to use on a going-forward basis, it was announced that there would be a reconciliation for 2001. That's going to take place in the fall of 2002. Municipalities were informed of this by a deputy's letter this fall. So the programs that have always been considered active and actively updated throughout the history of the program are going to continue to be updated. Those are social assistance, social housing, policing—the 16.

Mr Bisson: Even in social housing, there are questions as to what you guys did with the monies from the feds, but we'll get to that later. The question I'm getting from the municipalities within my riding and others I've dealt with—their big complaint is everything was frozen on downloaded costs in the year 2000. Those costs have increased because of natural pressures and they are now having to make decisions, if they're part of a DSB, district service board, or a larger municipality, "Either we reduce those services or we have a tax increase." So they're saying, "Is the ministry going to adjust the 2000 cost to 2002-03?"

Ms Harding: And the answer is yes.

Mr Bisson: Fully or just a portion of it?

Ms Harding: There are 16 programs. Those which were active previously are going to be updated, yes. So

the ones that they've always had updated are going to continue to be updated.

Mr Bisson: And that will take effect for the 2002-03 budget year?

Ms Harding: Well, they have different budget years than we do.

Mr Bisson: Yes, I realize, but we're trying to overlap our budget with their budgets.

Ms Harding: Right.

Mr Bisson: When can the municipality expect to get the readjustment and the CRF based on the LSR costs?

Ms Harding: In the fall of this year.

Mr Bisson: My question was, are you contemplating fully covering off that cost, the increase that they have?

Ms Harding: Yes.

Mr Bisson: Yes? I want that on Hansard. The answer was yes?

Ms Harding: That we will be updating the active costs as we always do, fully, yes.

Mr Bisson: Thank you. That's what I wanted.

The Chair: I think we'll have to leave it at that for now, except I just want to make one correction. I think a statement was made earlier that the page 86 that was referred to was from the Ministry of Municipal Affairs estimates book. That statement that Mr Bisson referred to earlier was actually from the Ministry of Finance estimates book. There are two estimate booklets stapled together and what you were referring to was the Ministry of Finance.

Mr Bisson: It was finance, so it's contradictory to their own position. OK.

The Chair: With that, we'll recess until 1 o'clock this afternoon.

The committee recessed from 1200 to 1303.

The Chair: Let's call the meeting to order.

Interjection: It seems we have a quorum.

The Chair: Yes, we do have a quorum here. The government side would start this afternoon, but it's been agreed that Mr Bisson should go first and that we'll have at least two rounds of 20 minutes each.

M. Bisson : Merci beaucoup, Monsieur le Président.

Comme j'ai dit plus tôt—vous m'avez donné une chance de ramasser des appareils—dans la circonscription de Timmins-Baie James, dans la majorité des communautés l'administration de la municipalité est faite en français : des communautés comme Fauquier, Kapuskasing, Val Rita et toutes les autres. Je sais que leur préoccupation avec le transfert des services aux municipalités est un peu différente des autres, donné la réalité d'où ils se situent dans la province et de la grandeur de ces municipalités.

Plus tôt ce matin, quand on a siégé ici, le vérificateur de l'Ontario nous avait dit qu'il avait fait des recommandations au ministère faisant affaire avec ce que vous autres au ministère des Finances pourriez faire pour être capables d'adresser certaines préoccupations qu'a le vérificateur lui-même. Ce matin, dans votre présentation, vous avez répondu à ces préoccupations. Une de ces préoccupations, c'est toute la question de ce qui se passe

avec ce qu'on appelle le RSL, le programme de remaniement des services locaux, ce que vous autres appelez « LSR ».

Dans les réponses que vous m'avez données, le problème est ceci : quand on a fait le transfert de ces services à la municipalité, services qui étaient payés par la municipalité et la province dans le passé, avant l'an 2000, ou qui étaient entièrement payés par la province, la province a basé l'ajustement de l'autre programme qui fait l'affaire, le FRC—le fonds de réinvestissement communautaire—sur les transferts de l'an 2000.

Là, le problème qu'on a, c'est que les coûts ont augmenté pour ces services : les ambulances, les coûts pour maintenir les aéroports, tous les 11 ou 12 services—je ne me rappelle pas lesquels—qui ont été transférés aux municipalités. La formule était basée sur les coûts de l'an 2000. Il y a eu des augmentations faisant affaire avec le fait qu'on paie plus pour les salaires, on paie plus pour de différents aspects des programmes. Le problème, c'est que les municipalités n'ont pas été capables de récupérer dans le FRC l'argent nécessaire pour balancer ce qui était transféré dans l'an 2000.

Si j'ai bien compris, puis ça a été très clair ce matin—vous êtes la sous-ministre adjointe, je pense, madame ? Je n'ai pas poigné votre titre. Vous êtes la sous-ministre adjointe ?

Interjection.

Mr Bisson: No? OK, excuse me. Pour le record, c'est quoi, votre titre ?

Ms Harding: I'm the manager of provincial-local funding.

M. Bisson : Vous êtes la gérante ; excusez-moi.

Quand je l'avais demandé plus tôt aujourd'hui, vous avez dit que le ministère va faire un ajustement au FRC basé sur les coûts pour ces programmes qui ont été transférés faisant affaire avec cette année-ci. En d'autres mots, si les coûts pour les services d'ambulance ont augmenté de 3 % commençant en l'an 2000 allant à l'an 2003, il va y avoir un ajustement dans le FRC. J'aimerais pour le record savoir si vous êtes capable d'expliquer comment vous allez faire ça. À la fin de journée, en l'an 2003, est-ce que ça veut dire que les augmentations vont être complètement reflétées dans l'ajustement que vous faites au FRC ?

Ms Harding: I'd be happy to answer that. Land ambulance services are one of the active costs that are going to be part of the year-end reconciliation that we're going to do for 2001 in the fall of 2002. Land ambulance is a bit of a special case in that the municipalities and the province have been working on a new template for sharing costs through the land ambulance implementation steering committee. It's a joint municipal-provincial group. The government decided that, with the adoption of the new template, the exception that was made for updating costs in 2001, the only exception—as you know, they were maintained at 2000 year-end levels, with the exception of land ambulance, due to the adoption of the template. So we have already adjusted all municipalities' CRF to reflect any increases—

M. Bisson : OK, on va revenir sur ces ambulances. Si on prend comme exemple ce qui est arrivé avec les transferts, on va dire pour les aéroports ou d'autres services qui n'ont pas été ajustés, moi, la question que je demande : est-ce qu'on va ajuster complètement l'augmentation qu'il y a eue à ces services-là sous les chiffres de 2003 dans le FRC ?

Ms Harding : The reconciliation is going to be for services that are cost-shared and for assessment-based services. So that will include land ambulance, social housing, social assistance, policing, child care and public health. In addition, we're going to update Provincial Offences Act revenues in the CRF to reflect the exit audits that the Ministry of the Attorney General is doing. We are also going to update our managed forest tax rebate and conservation land tax rebate programs.

M. Bisson : Quand vous faites ces ajustements, ça va être pour être capable de balancer complètement l'augmentation des coûts de l'an 2000 à l'an 2003 ?

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Ms Harding : Eventually. However, in 2002 we will be reconciling for 2001.

M. Bisson : Je comprends. Mais ce que je dis, c'est que ça va refléter les augmentations de coûts que les municipalités ont vues pour ces services, année par année.

Ms Harding : It will look at the net change in costs, whether they're upwards or downwards, and it looks at them as a package, so it looks at how they've changed as a group.

M. Bisson : L'autre partie, c'est que je comprends que le ministère s'organise pour faire des séances avec les municipalités dans les prochains mois pour expliquer les nouvelles formules. Savez-vous les dates qu'ils vont être dans le nord-ouest de l'Ontario ?

Ms Harding : We're actively planning for those sessions at this point. We're hoping to hold them sometime in the spring of this year.

M. Bisson : Ça va être où ? Savez-vous à ce point-ci ?

Ms Harding : No, other than that they will be held in all regions of the province. But we haven't determined specific sites yet.

M. Bisson : Si je comprends bien, à cette séance, quand vous avez un ministère et les municipalités ensemble, vous allez expliquer la nouvelle formule, comment elle est ajustée pour l'an 2002 et l'an 2001 aussi.

Ms Harding : Yes, with a focus on the 2001 reconciliation that will be done this fall.

M. Bisson : Si les municipalités, à ces réunions-là, trouvent qu'elles ne pensent pas que vous ayez reflété adéquatement les augmentations de coûts, est-ce que c'est aussi une consultation où vous êtes capables de retourner pour faire des ajustements à la formule ?

Ms Harding : The formula is set as a result of cabinet decisions. That's not something that staff would change at a—

M. Bisson : Vous avez répondu à la question. Les séances que le ministère va avoir au printemps, ça ne va

pas être une consultation sur la formule ; ça va être une présentation de la formule.

Ms Harding : That's right. We conducted an extensive consultation last spring, and one of the things we heard from municipalities, in addition to requesting that we keep the CRF, with administrative improvements, is that there is still a need, as staff turns over and as the formula changes with administrative improvements, for further training on it. So one of the commitments we made coming out of it is that we will be out providing hands-on training to municipal staff.

M. Bisson : OK. Si je décide, comme député provincial, que quelqu'un de mon staff pourra aller à ces séances-là, est-ce que c'est ouvert à n'importe qui ou sont-elles fermées, seulement pour les greffiers et les trésoriers des municipalités ?

Ms Harding : They are certainly geared toward the municipal staff who have to work with the numbers, but I don't think they would be closed.

M. Bisson : C'est ce que je pensais. Donc, si on décide d'aller comme participant, comme n'importe qui d'autre, pas de problème. Parce que dans nos bureaux, l'affaire qu'il faut comprendre—c'est un peu différent. J'imagine que c'est la même affaire pour les députés qui représentent les comtés ruraux. Parfois ils n'ont pas les connexions ; ils n'ont pas le bureau d'un ministère dans leur communauté pour répondre à leurs questions, et parfois ils communiquent avec le bureau de leur député pour avoir de l'information. Pour moi, il serait intéressant d'être là pour mieux comprendre la formule et pour mieux l'expliquer au monde quand on nous pose des questions ou qu'on demande de l'assistance.

Ms Harding : I'm certainly happy to provide any kind of technical briefing on how the formula works at any time.

M. Bisson : Mais pour les séances elles-mêmes, c'est possible qu'on peut y aller. C'est ça que je vous demande. Quand vous avez les séances au printemps quelque part au nord de l'Ontario, si quelqu'un dans mon bureau se pointe vers les meetings, vous n'aurez pas des objections ? C'est fait d'une manière positive. On ne parle pas de—

Ms Harding : Certainly.

M. Bisson : Avez-vous un mécanisme pour aviser les bureaux des députés quand c'est fait ? Quand les invitations sont mises aux municipalités, allez-vous vous assurer que les bureaux des députés seront contactés au moins pour les aviser des dates de ces réunions et des locations ? Je demanderais ça.

Ms Harding : I'm sure that our minister's office will follow up with you to provide you with any information you might need in that regard.

Mr Bisson : The other question is in English. It's in regard to First Nations communities. You've undertaken a transfer of airports that used to be provincially funded over to municipalities. As I understand it, most of the provincial airports have now been transferred, or down-loaded, as I like to call it, to municipalities. Are there provincial airports other than airports in First Nations

communities still owned by the province and not transferred?

Ms Harding: I'm not sure I know the answer to that question. I can be in touch with the Ministry of Transportation to find out.

Mr Bisson: So MTO would have the answer. The reason I'm asking that is because the airports up on James Bay or up in the northwestern part of the province are provincial airports that are run by the province itself. Is there any intention to download those on to the First Nations communities?

Ms Harding: Again, that's not a question that I can speak to.

Mr Bisson: Does the deputy have an answer of any type?

Dr Christie: No, I can't add to that.

Mr Bisson: Then I guess my question is to the clerk or to the Chair. Is it the purview of the committee that I can get an answer to that question through public accounts? I would request that I get some sort of formal answer from the ministry if there is any intention of transferring over provincial airports that are now in First Nations communities. Are there any plans for transferring those on to the First Nations communities?

The Chair: What we can certainly do is that with any questions that arise as a result of these hearings, we normally formulate a letter back to the ministry in the hope of getting an answer to those questions. So we'll certainly—

Mr Bisson: I'm hoping I get an answer because—

The Chair: Our legislative research assistant makes note of those, and all of these items are covered in the letter that we send.

Mr Bisson: I only raise it because all First Nations communities in my riding except one don't have roads, so they are only fly-in communities. I know in Kashechewan and in Fort Albany at the local airports I've heard some discussion of those being transferred to the municipalities, and they ain't got the money to run most of the services in those communities, let alone airports.

Ms Harding: Those airports aren't in municipalities.

Mr Bisson: No, they're not. Well, technically you've got a piece of provincial land. Basically you have, for example, Kashechewan, where the reserve is, and the airport strip is on provincial property. But what I'm hearing up in Kashechewan is that there are ongoing discussions to try to transfer the airport over to the local band council. I've got some real worries about that because they don't have the funds to adequately maintain those airports over the longer term, unless you've got some sort of funding arrangement.

Dr Christie: The people who would be familiar with plans in that regard would be the Ministry of Transportation and the Native Affairs Secretariat. If you wish to convey a question, either we can check with them or you could convey a question to them.

Mr Bisson: I look for an answer to that, because I'm not sure the province really wants to go there, but those are the rumours I'm hearing up north and they worry me

greatly. They don't have the funding to maintain them, and you've put those band councils in a terrible position.

The next question is on the services. For example, when you downloaded or transferred, the highways on to the municipalities, as you like to say, or the transit costs etc, you gave a one-time adjustment to those communities. Is there any contemplation whatsoever to put an adjustment in the CRF at one point in order to deal with what is an increased cost to the municipalities? As with those services like ambulances and others that the manager listed a little while ago, there is an increased cost for municipalities to maintain highways and other services that were transferred, where one-time funding was given. So is there any attempt on the part of the ministry to put an adjustment in the CRF so that municipalities such as the city of Timmins, which probably got more highways than anybody else, or pretty darn close to it, have some sort of adjustment to offset the increased costs they have on an ongoing basis to maintain what used to be provincial highways?

Dr Christie: The highway transfers were not part of the exchange of services under LSR, so the community reinvestment fund, which addresses that set of programs, would not have the capacity to address the highway needs.

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Mr Bisson: So for those services that were transferred and there was only one-time funding put forward—you had given some money, if I remember, for transit and airports. When you transferred highways and a few other services, there was one-time funding put forward, and that was more to adjust the capital cost over a longer period of time, if I remember the way that was done. My question is—and I think you've answered it—you don't contemplate making an adjustment to the CRF in order to compensate municipalities for increased costs attributed to maintaining those services?

Dr Christie: Just a couple of points: the way this is structured, there was residential education tax room provided for the aggregate of these costs, including transit costs. There's also been additional transit money supplied independently of the community reinvestment fund. So those two sources are available for support.

Mr Bisson: Let me be clear here. If we just take highways as an example, they were transferred, I forget, in 1998 or something like that.

Ms Harding: Earlier than that.

Dr Christie: It would be 1996 or 1997.

Mr Bisson: Quite a long time ago. When they were transferred over, the municipalities were given one-time funding to offset the capital cost to reconstruct those highways. Arguably, is that enough money? I don't even want to go there at this point. The issue is that the city of Timmins has to pay plow operators to plow what used to be provincial highways that are now municipal roads. Fuel costs have gone up, contracting costs have gone up etc. Is there any contemplation of adjusting the ongoing maintenance costs of the municipalities?

Dr Christie: Maintenance costs of municipalities for municipal roads were not part of the trades in LSR. GO and municipal transit were. So the CRF will continue to track transit, but local roads are outside this set of programs and would not be addressed.

Mr Bisson: So they won't be adjusted. What others were there? I'm trying to remember; there were airports, there were roads. What else was there that was a one-time cost that was adjusted? I don't remember what they all were.

Dr Christie: I don't recall offhand.

Mr Bisson: If I remember correctly, one of your slides—and I'm just trying to find it very quickly—listed the various services. Yes, right here on slide 5: there is the whole issue of the LSR programs that were transferred over, when we were talking earlier with your counterpart, the manager of provincial-local finances. It lists all the various services that are LSR programs. Is it the intention, if there are increases in any of these 16 programs, that they will be offset in the CRF for the adjustments that you make?

Ms Harding: Some, but not all.

Mr Bisson: Can you go through and tell me which ones are not, just so I'm clear?

Ms Harding: Certainly.

Mr Bisson: Or those that are; maybe that would be easier. Whatever way is easier for you.

Ms Harding: I'll show you those that are not: property assessment, airports, septic inspections, the municipal support grant and gross receipts tax. That's it.

Mr Bisson: So those five will not be adjusted into the new CRF calculation?

Ms Harding: They are still in the CRF calculation, but they're maintained at the point at which they were devolved.

Mr Bisson: That's what I'm saying. You're going to maintain them at year 2000 cost.

Ms Harding: Not even at 2000 in some cases. They're maintained at the point at which they were devolved.

Mr Bisson: I see what you're getting at, because some of them were before or after. I get it. So all the other ones—and I'm not going to go through them, but as you said earlier, child care, social services, public health, land ambulance etc will be adjusted.

Ms Harding: That's right.

Mr Bisson: My question is, how are you going to do that? For example, if you transferred land ambulance to a municipality and they provided X amount of service to people in that community, and they decided to either increase or decrease services to the community, ie response time, how are you going to determine how you're going to make the adjustment?

Ms Harding: I'm happy to explain that. What we use is the approved land ambulance budget that's negotiated between the municipal service provider and the Ministry of Health.

Mr Bisson: Explain that so most people understand what we're talking about: it's whatever services are stipulated in the agreement.

Ms Harding: There's a funding template that is used by land ambulance providers—there are 50 of them across the province—that is used to cost-share with the province. It's that approved template that we get from the Ministry of Health that's entered into the CRF calculations.

Mr Bisson: On the social housing issue, there is some debate going on right now that the province is taking back some of the money that was flowed to the municipalities or the local service boards. I don't have all those documents with me; I remember sitting down with some of the municipalities and going through. Is there an attempt to readjust that so they're not on the negative side, as they fear they will be this year?

Ms Harding: Social housing is in the process of devolving to the municipalities. As it devolves, the costs will be maintained at that point in the CRF formula. For example, the Ontario Housing Corp stock has already been devolved. As part of the year-end reconciliation, we'll be fixing that point. The rest of the stock hasn't yet devolved, but the policy direction we have is to maintain social housing costs at the point of devolution.

Mr Bisson: There's some concern as to what's going to happen with the ability local housing authorities are going to have to maintain housing stock over the longer period, because the money they used to be able to set aside in their capital reserve funds—they're greatly affected on the negative side in what they can put into them, from what I understand, by what's happening with discussions between the province and now, I guess, district local area service boards. Can you speak to that a bit? Is there an attempt to try to reconcile that?

Ms Harding: I believe the Ministry of Municipal Affairs and Housing is doing that, but that's not something I can speak to.

Mr Bisson: It's not something your ministry is directly involved in?

The Chair: Can we leave that, Mr Bisson, for the next round? Mr Hardeman.

Mr Hardeman: Just quickly for clarification, I wanted to go to the roads issue that Mr Bisson raised, about the fact that the transfer of roads from provincial highways to municipal highways was not part of the local service realignment. I think it was done the year prior to the service realignment. I stand to be corrected by you, but I think at the time they got 65% of five years' capital cost projections for the road that was transferred and a number of years for maintenance cost. It was done on roads across the province that were no longer considered part of the provincial road network but fit into a more regional or local type of road. In some parts of the province those roads were already being maintained by local governments, and in other parts the provincial road network was putting forward transportation for local purposes. That's why it was felt that was an appropriate way to make sure everyone in the province was paying their fair share for local roads.

My understanding is it was presumed that in that transition period when the funding was provided for

maintenance and upgrades, the local economy would take up that cost and then make it part of the municipal road structure. Is that reasonably close to—

Dr Christie: That's essentially my understanding of it.

Mr Hardeman: Going back to the CRF and the auditor's report, it was mentioned this morning about the recommendations in the auditor's report, and the ministry in their presentation pointed out that they were meeting all the requirements or were working on all the recommendations put forward by the auditor. One of those there has been some discussion about is the recommendation to reconsider or revisit the CRF funding. As the discussion was going on, I got the impression that some may think that in revisiting or redoing we're talking about redoing the local realignment, as opposed to re-evaluating or auditing or benchmarking the actual amount for each year.

I just wanted to make sure I understood that we're talking about making sure the values used are the appropriate values year to year. If that's the case, I'd like to hear a little bit more about the process you used to come to the conclusion of what you need to do and how you're meeting the recommendations the auditor made in his report.

1330

Dr Christie: I would just distinguish between two sorts of processes or discussions. The consultation that was held last spring was really on the design and structure of the CRF, as opposed to the operation or the administration, the specific numbers that went in. It was in that spring discussion that ideas or possible approaches, like a resource equalization model or an expenditure need model, were discussed with the local government. It was that more policy-directed discussion that resulted in the feedback we described earlier. There are also discussions on the numbers themselves, the process for getting them, the administration of the program; those will continue on as part of doing the business. I'll ask Liz, who's the direct participant, to describe how that's done.

Ms Harding: Sure. We informed municipalities in the fall of 2001 as to what their 2002 CRF allocations will be. In previous years we hadn't been able to let them know until some time well in the first quarter of their fiscal year. This way we allow them to carry out their budget planning, knowing what their CRF allocation will be. In the fall of 2002 we plan to reconcile the 2001 costs in the way that Mr Bisson was asking me about and tell the municipalities what their 2003 allocation will be. If as a result of the reconciliation we find that their LSR costs have gone up, we will be adjusting upwards in respect of 2001 and 2002 in the fall of this year. If as a result of the reconciliation we find that their LSR costs have gone down, we will be recovering that money in the first quarter of 2003, again in respect of their municipal budget cycle.

Mr Hardeman: This is a little parochial, I guess, but it relates to one of the items that we're going to reconcile

at the end of the year, and that's the farm tax rebate program. I just want to understand how, and it relates to a previous question about social housing and how you reconcile the difference in costs. The farm tax rebate program was, of course, sending 25%—in the calculations that were done in 1998—of the eligible tax paid on farms back to the farmer. We then changed that and took that same amount that went into each municipality and sent it to the municipality and then they would charge only 25% on the value of the farmland.

In part of the province, what's happened in the last few years is that the price of farmland has gone up dramatically. So the cost or the amount of taxation paid by farmers has gone up quite dramatically compared to taxation in other elements of the community, other tax classes. Is the reconciliation at the end of this year going to include 75% of the taxes paid by farmers in the year 2001?

Ms Harding: Yes. What we're doing is updating for the reassessment that recently occurred. The policy isn't changing, the 25%-75% split is the same, but what we heard when we were out doing our consultations is that this is one of the programs that's affected by reassessment. A lot of rural communities were concerned about it and they've asked that we update those figures to reflect the values after reassessment, and we've agreed to do that.

Mr Hardeman: You say you're going to do that based on the reassessment. Is that also going to include increased spending of that same municipality that applies now totally to that increased reassessment of agricultural land?

Ms Harding: I'm sorry, I'm not sure I understand the question.

Mr Hardeman: The problem is that because of the tax classes—between industrial-commercial and farm-residential—you can't increase the spread. We'll take an example of a municipality: their tax expenditures went up 15% last year, and that's all applied to farmland because they can't increase the burden of the industrial-commercial sector. So now we are going to have a 60%, 70% or 80% tax increase on the farmland. Is the farm tax rebate going to cover 75% of that?

Ms Harding: We're still in the process of getting technical direction on how that will proceed.

Mr Hardeman: OK, but that is all part of what you're going to reconsider in the reconciliation to make sure that it's fair to all the classes.

Ms Harding: That's right.

Mr Hardeman: The other thing: in trying to get an opinion as to whether we should carry on with the CRF in its present form or go to a resource-based grant program, whom did we talk to?

Dr Christie: There were a number of groups involved in the discussion. We selected the municipalities themselves geographically so that we were sure we had a balance to get input on those regional issues. We made sure that the workshops had a mix of municipalities that included some who did and some who did not receive the

CRF, and it was a mix of small and large. There were also discussions with municipal associations that included AMO, the Northern Ontario Municipal Association, the Federation of Northern Ontario Municipalities, the Rural Ontario Municipal Association, Ontario Small Urban Municipalities, the Association of Municipal Managers, Clerks and Treasurers of Ontario. Those were the groups that we consulted with.

Mr Hardeman: If we were able to get the response from all the municipalities—I think you mentioned in your presentation earlier that 82% of the municipalities supported the principle of the CRF in its present structure—if we were to do an individual analysis of who said what, is it possible that the 18% who didn't support the present structure would generally be the ones who were presently not getting CRF?

Dr Christie: That matter came up this morning and we'll look at the breakdown of that. I think we indicated then that we'd have to go back and look at the breakdown, but you provide the opportunity to clarify that these consultations were not only with people who received CRF; they were also with some who did not receive CRF. So it's certainly possible that some of that 18% contain people who were not recipients.

Ms Harding: If I could just add, the ministry contacted all municipalities directly. A letter went out from the assistant deputy minister announcing that we were doing the consultation and asking for written input. We got written submissions from 125 municipalities, and it's on the basis of an analysis of those presentations that we were able to say that 82% wanted to keep the CRF basically in the form that it's at but with administrative improvement.

Mr Hardeman: Finally, obviously in the consultation 82% said they liked the principle of the CRF rather than going to the resource-based grant program. Of the recommendations that they made on individual items, how well were we able to meet their needs or requests based on what they wanted done, such as earlier notification and some security in knowing how they could budget and so forth? How are you meeting the requirements?

Ms Harding: Both the municipalities, when we went out and consulted with them, and the Provincial Auditor, through this report, raised the issue of the timeliness of the grant when we release it. As I mentioned, this year, for the first year, we announced the 2002 CRF allocations just at the beginning of the municipal budget planning process, in the fall of 2001. This gives them the information they need to enter into their budget planning cycle. As I said before, we intend in 2002 to do the 2001 reconciliation and give them their 2003 allocations, again, in the fall so that we're respectful of their budget planning cycle.

Mr Hardeman: Thank you. I'll turn it over to Raminder.

1340

Mr Gill: Carrying on with the same thought as my colleague Mr Hardeman, in terms of the 18% of municipalities that did not quite enthusiastically agree with the

CRF, would Toronto be one of the municipalities in agreement or non-agreement? Are you able to say that?

Ms Harding: That's one of the pieces of information that we'll go back and provide. That was asked this morning, too: what the positions of the top five, the largest municipalities, were. We'd have to go back and look at the database.

Mr Gill: My concern is, what is the population being served by these municipalities that did not agree and how does that impact the population at large?

One of the things you've said, coming back to the ministry's actions, is, "Review municipal finances to ensure CRF funds are being used according to provincial intent." Slide 19, the last bullet. How do you ensure that?

Dr Christie: We referred this morning to some of the changes that had been put in to require a council resolution that the funds would be used for the benefit of local taxpayers and that they file an information review with us that gives us a detailed explanation and review of municipal expenditures, so that the Ministry of Finance and the Ministry of Municipal Affairs receive the undertaking from the local council and have the information at hand to review how they spent it and flag any difficulties with what they might be doing.

Liz, do you want to add to that?

Ms Harding: Sure. Around the time of the allocation in early November, a joint deputy ministers' letter went out to all municipal clerk-treasurers, and it had an attachment that dealt with the conditions of CRF funding for 2002. Municipalities were asked to submit to the Ministry of Municipal Affairs and Housing a council resolution declaring their municipality's intent to use the CRF allocations for the benefit of taxpayers and acceptance of the CRF allocations in accordance with the terms and conditions set out in the letter. In addition, they were asked to provide the 2001 financial information returns in accordance with the deadline set by municipal affairs and housing and provide their tax rate bylaws by a certain date, as they usually do. This was done, and one of the things we heard in the consultations was that we should, to the greatest extent possible, streamline the reporting requirements and make sure we aren't asking for the same information in different forms twice. We were largely able to do that through the financial information returns, but we have asked upfront that they provide us with this council resolution.

Mr Gill: I've seen in one of the charts that the CRF funding was, I believe, \$197 million in 1997. Then it went up to \$500 million, and it's staying at about \$500 million. That's a dramatic increase. Is there any basis to that? There's a chart in there somewhere that says it was \$197 million in 1997.

Dr Christie: I think 1998 would have been the first year. It became effective January 1, 1998.

Mr Gill: It could have been the 1997-98 year.

Dr Christie: There would have been three months in fiscal 1997-98, which is why the figure is—I'll have to rely on the eyes here a bit; I may be out—\$169 million for 1997-98, \$678 million for 1998-99. That discrepancy

reflects the fact that it was only effective for three months of the 1997-98 fiscal year, because it started January 1.

Mr Gill: OK, that explains it. I thought it was a dramatic increase.

Ms Harding: Just the difference in fiscal years.

Mr Gill: In terms of giving the municipalities earlier indication—they seem to be quite satisfied or happy with that; I know Ann Mulvale seems to be in agreement with that. Is that Ann Mulvale as head of AMO, or is that Ann Mulvale as an individual? Is she happy that all the municipalities under her jurisdiction are happy with that?

Ms Harding: Actually, it was Mrs Mulvale in her role as president of AMO. I don't believe her home municipality is a CRF recipient.

The Chair: That may make a difference.

Mr Gill: Yes.

The 2002 CRF reflects the results of the consultations. How did that decision come about? I think you might have touched on that. Perhaps you want to explain that a little more.

Ms Harding: Sure. As I said, and as the deputy explained, we conducted quite an extensive consultation with municipalities and reported the findings of the consultations to cabinet, as we do to the government every year. Decisions were made to essentially keep the program in its current state, except that we were able to deliver on some of the requests for administrative improvements that the municipalities had requested. We were able to improve the timeliness of the announcements, so that we don't hold up their budgeting process. We were able to tell them in the fall what their allocation for the next year would be.

In addition, in response both to what we heard from municipalities and to what the Provincial Auditor said, we've agreed that for the programs that reflect cost-shared and assessment-based costs, as well as the programs for which service delivery has not been transferred, we will do a year-end reconciliation for 2001 in the fall of 2002. This was something that municipalities had been requesting but hadn't known about until that point.

Mr Gill: As a result of LSR, some municipalities have had windfall gains, if you want to call it that. What percentage of municipalities might be there?

Ms Harding: The percentage varies a little bit, year to year. In 1998 there were 43 municipalities whose net LSR costs were exceeded by the residential tax room. The auditor identified those municipalities as having received a windfall gain through LSR. There were 43 municipalities that benefited by \$54.5 million. In 1999 there were 72 municipalities, whose gains totalled \$134.3 million, and in 2000 there were 65 municipalities, with a benefit of \$125 million.

The Chair: Mr Patten.

Mr Patten: I'd like to go back, if I may, to the municipal savings target and get a better sense of how that was established. What was the underpinning of the rationale for that?

Dr Christie: I think the rationale for the presence of a savings target was, as I noted this morning, the actions of all levels of government to pursue efficiencies, to pursue better value for money for taxpayers. The federal government had certainly done that, the provincial government had done that and there was an expectation that local governments should also do that as part of contributing to the overall improvement in the operation of the government sector.

There was some recognition of the effect of size on municipalities in establishing the level of the savings targets. The smaller municipalities, which I think consisted of about 95% of municipalities, were at the 1.7% level. The other 5% were in the two other levels of 3.2% and 4.2%.

1350

The basis for the specific numbers—as in any case like this, these things are more art than science. These numbers are, in effect, a floor; they're not a singular target that people are to accomplish. In fact, I think it is very much hoped that municipalities would be able to do more than that and thereby free up some money either for additional priorities in their area or for tax cuts, if that was their priority. So if a municipality achieves 2%, that's great. They've got that extra amount to deal with. In the case of the 4.2% area, 4.2% is really a threshold for receiving the community reinvestment fund, recognizing the enhanced ability of the higher areas. Basically, these were based on sensitivity testing—looking at different ratios and doing a sensitivity test on the outcome.

Mr Patten: Were there any discussions with the municipalities in the establishment of those percentages?

Dr Christie: In terms of the specific ratios, I'm not aware. These discussions would have happened in 1997, so I don't know whether we're aware of any specific discussions.

Ms Harding: My understanding is that this was a decision made by the province, but that it was made public before the trades were announced.

Mr Patten: I'm aware of that too. I saw the announcements.

On page 156 of his report, the auditor talks about that as it affects the community reinvestment fund. He states: "The CRF allocation formula takes into account only those LSR costs that remained after the deduction of approximately \$500 million annually to reflect a provincially imposed savings target." As we just said, "That target is a percentage of total municipal spending." He goes on to say, "The imposed savings target varies by size of municipality, and the ministry had little empirical or analytical support for this approach." So you haven't disagreed with that, I suppose, and suggest it was a rule of thumb and a floor, and presumably that would pick up any grave variations in negative end results. He says, "Furthermore, since \$1.3 billion in LSR programs are still administered by the province, the savings target presents municipalities with the challenge of finding savings in programs they do not control."

He goes on to say: "The ministry did not update the residential-education tax-room component of the CRF

payment formula to reflect recent changes in assessment data, including changes in the latest province-wide current value assessment. Property assessments increased by an average of 14% above those used for CRF purposes. Updating the tax room component to reflect these changes would have increased the CRF entitlement of some municipalities and decreased the entitlement of others." Presumably it was the ones that were in greatest need.

My colleague to the right of me will deal with the 82% factor, but what is your response to that? It sounds like at each stage you begin with a target that the province says municipalities should have, then you work on a fixed rate, which is not actual costs as incurred over a period of time, and then you come up with a formula that is perceived by many municipalities as likewise arbitrary and unrelated to the reality of their living circumstances. Would you disagree with that?

Dr Christie: I think for the community reinvestment fund, as we pursued the discussion with the municipalities, the purpose of that discussion was to hear from the municipalities what they did think about the community reinvestment fund and possible alternatives to it. As I noted, the dominant response from that was that people preferred the stability that was given by the current formula with the current cycle of updating, in particular things like the residential education tax room—

Mr Patten: When was that consultation?

Dr Christie: The consultation was spring 2001.

Ms Harding: That's right.

Mr Patten: You mentioned some groups before; those were the groups you were talking about, the groups of CFOs or CAOs and clerks—

Dr Christie: Yes. There was a regional size, a mix of municipalities etc, plus those organizations.

Mr Patten: So it sounds, numerically, in terms of numbers of municipalities—I don't want to get into the numbers per se, but I do want to come back to it. It would appear to me, as I said this morning—and I'd like some kind of verification of that—that the larger municipalities are the ones that are really struggling the most with this particular formula. We can hear from Toronto and we hear from Ottawa in particular and some of the others that there is still a discrepancy in their particular arrangement. Would you agree with that?

Where is it that there are still problems with municipalities? Is it not correct to say that, frankly, most of them are the larger municipalities?

Dr Christie: We hear from a wide range of municipalities about the program, and some of the municipalities will talk a good deal about the administration. Even municipalities that don't receive necessarily a lot of the community reinvestment fund are concerned about the timeliness; they're concerned about the predictability, because of the impact on their budgeting.

Toronto, which does not receive the community reinvestment fund, has certainly made its views clear. We talked this morning about what the numbers were in terms of costs versus the benefits to them on the

residential tax room side, noting that that had not been updated. I think things would be better still for Toronto if you used the updated numbers. So the numbers I was giving you probably understate the strength of the Toronto position. They have received substantial restructuring help, grants etc, that we also mentioned this morning, as well as realizing, according to their CAO's report, substantial savings from amalgamation and restructuring.

I'm sure my friends and colleagues at the city, who we have dialogues with and have worked with for some time, face a number of budgeting challenges, as do most governments today, but to the best of our determination, the budgeting challenges do not appear to arise out of the community reinvestment fund. There are of other sources, I think, potentially.

Mr Patten: So it sounds to me like you're saying, "Listen, our goal is to arrive at a point where a municipality in actual terms is not suffering by virtue of the imposition of amalgamation, the imposition of cost savings, and there's a formula." You say you are committed to—forget about the equality question—talk about just the revenue neutrality of it. But unless there are mechanisms of adjustment in terms of actual costs that recognize the ongoing living organism of a municipality, it's never going to work.

1400

Therefore, I implore you—because the auditor points out that there were no adjustment mechanisms that took into account the reality of what was happening over time. But I understand you to say, "That is our goal." If you're saying that, then great, because that's what I think the municipalities would like to hear and it may require getting together to agree upon the final numbers and how they're calculated. But if the province sticks with a fixed point of view in time that never was related to the reality of changes in program costs etc—for example, I understand the province bills a municipality for its tax collected for certain programs and it's based on actuality, and the municipalities are saying, "But you're not doing this the other way," that it's a struggle to do it the other way. What's your reaction to that?

Dr Christie: Whether programs are adjusted to current costs or not depends on, among other things, some of the factors that Liz talked about. There will be adjustments to current costs and the reconciliation that's done in the fall of this year will be on the basis of current costs. There are some programs that are fully devolved to the municipalities, where the province doesn't share any of the costs, and I believe those are not re-costed every year because the municipality has total control over what is spent in those; there's no provincial cost-sharing, no provincial input pertaining there.

Mr Patten: Well, some of those had no option. They have no control over them, but they now have the responsibility to pick up the funding of everything, when it was a joint arrangement or a provincial responsibility heretofore. So in that sense, presumably, you would have to consider that: the rising demographic growth and the

influx of new Canadians, the requirements, you know, all those kinds of costs. It seems to me that that should be part of the consideration.

Dr Christie: I'm not sure I'm understanding, but let me try, and I'm sure you'll tell me if I'm not. If the suggestion is that there should be a recognition of cost escalation as opposed to program expansion or program enrichment or something like that—

Mr Patten: Program expansion by virtue of having to respond to things.

Dr Christie: The difficulty of measuring, of disentangling those costs and determining what is attributable to what would be pretty significant. Given the design of it, there may be implications for other parts of the formula, like the res tax room, and some of these haven't been updated by discussion with the municipalities in terms of the stability of the result. But I'll ask Liz to expand on that.

Ms Harding: The only thing I would add to that is that the big-cost drivers are still among the active programs. Social assistance, for example, is an item which was temporarily maintained while we reviewed it, but we've agreed that we will continue to update those costs. Land ambulance, public health—those are the big cost-drivers. The ones that have devolved to this point are fairly small. Certainly what we heard from municipalities is that the big-ticket items in here are the ones that they want to see us reconcile, and we've agreed to do that.

The Chair: Mr Crozier, you've got about five minutes on this round.

Mr Crozier: How many municipalities are there now, in total?

Ms Harding: There are 447.

Mr Crozier: Just to get it in context, then, if there are 447 municipalities, 125 of them answered your questionnaire or communicated with you, and 82% of those were in favour—I'm just laying out some figures here. That means, then, that about 23% of the municipalities have indicated that they're in favour—less than a quarter.

Mr Patten: Representing what population of the province?

Mr Crozier: Less than a quarter have indicated that they're in favour. I just want to make sure the figures present the issue as it should be. Now, I don't know why some 322 municipalities didn't reply, but one could assume that they're all happy, as Mr Hardeman says, or one could assume that they've simply thrown their arms up and said, "Look, this government does what it wants to anyway." That's pure conjecture, I'm sure. I just wanted to make sure that we understood that, the same as 38% electing a government is really only 38% of 50%, and that's less than a majority.

I want to go to your presentation on slide 4 this morning, where you laid out the percentages of savings targets relative to the population of the municipality that's represented. Can you tell me, without going into too many figures again, roughly what percentage of the municipalities are 100,000 or less?

Ms Harding: Over 95%.

Mr Crozier: Over 95%?

Ms Harding: That's the way it was in 1998. There are fewer of them now.

Mr Crozier: Since they only have to attain 1.7% efficiency—or if they attain 1.7% or more, then they don't participate in the community reinvestment fund. Is that correct?

Ms Harding: Yes, they do.

Mr Crozier: OK, good. Why then—or no, you can't tell me why I misinterpreted that, but if they overachieve that, they can still participate. How did you arrive at those percentages, 1.7%, 3.2%, 4.2%? Can you tell me how you arrived at those percentages?

Mr Bisson: With a dartboard.

Dr Christie: We talked about the scaling, if you like, in terms of the levelling up with population. The choice of a particular number was, and is, as I think I indicated earlier, a matter of—there's no formula-based way one can do this. What we're trying to do, in doing this, is look at the impact on various municipalities of these savings targets and the ability to compensate those municipalities to ensure revenue neutrality. What was done was to look at a variety, to sensitivity-test the numbers, to determine the ranges where it made a difference or didn't make a difference in terms of where the number was. These were chosen basically based on the detailed look at the impacts across municipalities of the particular targets.

Mr Crozier: I sincerely wish—I mean this, there's no other intention, but I wish you had ended by saying, "In other words," and made it more simple. I'm still not sure that I understand how you arrived at those percentages, in other words, to determine whether they're fair. If there are no other words, that's OK, I'll accept that and I'll review Hansard, and maybe I'll be able to understand it a little better then.

I want to just talk briefly about overpayments. In the research information that we were given, it says, "In cases where year-end reconciliations identify actual costs as being below those forecasted, municipalities have been allowed to retain excess funds provided which have totalled about \$98 million over three years. The auditor concluded that to give due regard to economy, recovery of overpayments needs to be addressed." What has been done regarding overpayments?

1410

Ms Harding: In November of this year, municipalities were informed of a number of administrative improvements that will be made to the program, and in the memo that went out from the two deputy ministers at that point municipalities were told that as a result of the 2001 reconciliation that will be done in the fall of 2002, municipalities whose LSR costs have fallen will see their overpayments reduced by the province.

Mr Crozier: In this reconciliation, would there be any overpayments, or perhaps underpayments, for that matter? But we'll focus on overpayments. Would there be any overpayments that were just simply errors?

Ms Harding: If errors are found—

Mr Patten: It's only the federal government.

Mr Crozier: I'm getting there.

Ms Harding: If errors are found, they're corrected. But I think what the auditor was referring to was that in previous years, largely I think due to the timing of when we were doing the reconciliation, the minister chose to allow municipalities to retain the overpayments. It was a total of \$98 million over the three years.

Mr Crozier: I understand what the auditor is referring to. I'm referring to errors. Has the reconciliation been carried out?

Ms Harding: The reconciliation for 2001 has not yet, but 1998, 1999 and 2000 have been done.

Mr Crozier: Did you find any simple errors?

Ms Harding: We certainly have occasionally found errors.

Mr Crozier: When the errors have resulted in an overpayment, are they part of that \$98 million? Have the municipalities been allowed to keep them?

Ms Harding: No, the numbers that make up the \$98 million were overpayments, not errors.

Mr Crozier: OK. So there have been errors. What's your policy if there are errors on overpayments?

Dr Christie: The errors are found in the process of doing that year. So it's within the year, just as any other program, but as you go through the year, if there is an error and you find it, then you correct it.

Mr Crozier: And if it went beyond a year?

Dr Christie: We do this year by year, so I don't—

Mr Crozier: An error can be found any time, inadvertently. I think my colleague gave you a hint as to where I was going. As I said the other day when you were before us, I'm certainly on the province's side when it comes to some of these errors that pop up.

But in anticipation, I really wonder what our policy is, and if we do it on an annual basis, then whether it's an error or a legitimate overpayment, because of the figures that come in and are reconciled, the policy of the ministry would be to pay for underpayment and collect for overpayment?

Ms Harding: That's right.

Mr Crozier: Pay if errors resulted in an underpayment and collect if they resulted in an overpayment, generally speaking?

Ms Harding: That's right.

Mr Crozier: OK. That's fair. I think that's all I have right now. Thank you.

The Chair: Then we get back to Mr Bisson.

Mr Bisson: I want to get back to something I raised earlier this morning. I just want to make sure that I clearly understood what you told me. On the LSR programs, I'm still having a bit of difficulty believing what I heard, and I just want to make sure that I'm right. I've talked to some of the municipalities since we last had our go-round here, and they were a bit surprised when I called them and mentioned what you had said earlier in regard to the LSR adjustments, or the adjustments you'll make to the CRF based on what the cost of the LSRs were back in, let's say, the year 2000. So I just want to be clear.

You're a municipality. You were transferred the responsibility for policing, let's say, social housing, land ambulance, public health, and the cost was X in the year 2000. The government then made a calculation and created a formula called the CRF and said, "This is how we compensate you for revenue neutrality between the downloading, the tax room that you got on taxes, plus whatever your costs are at the end." If I understood you correctly, what you said earlier this morning was that if the cost of those services increased between the time they were downloaded and when they go back now and do the new calculations, whenever you make that adjustment—if, for example, public health costs have gone up because there has been a collective agreement that says wage costs have gone up 3.5%, lighting has gone up X per cent, heating has gone up X per cent, there will be an adjustment for that in this fall's numbers.

Ms Harding: We will adjust this fall for public health, as for other active programs, and we'll do it on the basis of the public health budget that's shared with us by the Ministry of Health.

Mr Bisson: I want to be clear here. What you're saying is that up to now it was based on the numbers as they were when those services were transferred.

Ms Harding: No.

Mr Bisson: For the LSR programs.

Ms Harding: Some programs, and I'll go over them if you like, are inactive because they have been completely devolved to the municipalities. But public health, for example, has been active up until this point. It was frozen in 2001 while we did our consultation and it will be updated. Just so I'm clear, it has been updated in regard to 1998-99 and 2000 now.

Mr Bisson: And the same would hold true for social housing, land ambulance, policing etc.

Ms Harding: That's right.

Mr Bisson: So there will be an adjustment. If there was a cost and that's associated to those things that would normally be the inflationary pressures on that program, you'll make an adjustment on that.

Ms Harding: That's right. For the record, municipalities were told of this on August 19, 2001. There was a news release that our minister put out just around the time of the annual AMO conference.

Mr Bisson: That's interesting, because I just spoke to four CEOs from communities within my riding and that took them for a complete loop. So they've asked me to come back and ask again. "You must have got the wrong answer." So you're confirming what you told me this morning.

Ms Harding: I am.

Mr Bisson: All right. I get back to the question because I'm not clear, and again just for the record—I'm going to take this cellphone and throw it away. It throws you off. That's the CEOs who are calling back who didn't get me before. There are two of them. I know who they are already.

On the question of level of service, for example, if there is an increase in a budget because a municipality

decided to increase or decrease services that were originally transferred to the municipality whenever, how are you going to take that into account?

Ms Harding: For public health and for land ambulance, we take into the account the approved budgets that we get from the Ministry of Health.

Mr Bisson: What about policing, housing?

Ms Harding: For policing, we reflect actual costs.

Mr Bisson: And the same thing then would be for social housing?

Ms Harding: For social housing, up until the point of devolution, we get our numbers from the Ministry of Municipal Affairs and Housing.

Mr Bisson: So that answers that question.

I'm going to come back to one issue that Mr Hardeman raised, because it's one of the ones on my list. When the provincial government decided to basically freeze taxes on industrial-commercial assessment so that, for example, in the city of Toronto, municipal taxes for residents would have to go up a significant amount before they're allowed to raise taxes on industrial and commercial assessment, I didn't realize that was also true for farmland. I would like to get a little bit of clarification, because I just got the tail end of that. Maybe you could explain for my benefit.

Dr Christie: I'll take a shot and then I'll ask Nancy to follow up. I think the point that was being made is that farmland is taxed at 25% of the residential rate, and that in municipalities where commercial-industrial rates are extraordinarily high and therefore they're prevented from raising them further, revenue raising occurs in the residential sector. Therefore, because farm tax is part of residential for those purposes, the farm property picks up its share of the residential cost.

Mr Bisson: So the exclusion is for industrial-commercial only?

Dr Christie: Yes.

Mr Bisson: I always thought that farming was also excluded for some reason. I thought that was the case. Anyway, I'm sure you'll want to speak to that when it comes back to your turn.

Obviously it's a political decision, not a bureaucratic decision, that there is not going to be the ability for municipalities to increase industrial-commercial assessment. How was the percentage or the number arrived at? By which logic did you get to the actual numbers?

Dr Christie: Nancy, do you want to do that?

Ms Naylor: Is your question in terms of how the ranges or why the limits on levies—

Mr Bisson: The ranges and the limits are what I'm looking for.

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Ms Naylor: When the government introduced the reforms to property tax, they identified the existing tax burden on the individual property classes at that time. The government defined what was termed "ranges of fairness," and that was meant to express the ratio of tax burden carried by individual property classes. For municipalities where, for example, the tax burden on com-

mercial classes was three or four times the tax burden on a residential class, that was defined to be beyond the range of fairness, so in future tax decisions the municipality was limited to moving toward a more equal or more equitable tax burden among the property classes. In some cases, municipalities are restricted from introducing increased taxes on their commercial or industrial classes. As the deputy said, they would have to look for additional tax revenue from their residential or multi-residential taxes.

Mr Bisson: We'll just take one; let's say the city of Timmins. At what point are they able to say, "Now whatever tax increases we have in our municipality apply to all classes of assessment"?

Ms Naylor: That would be when they brought the relative tax burden on different property classes within the provincially defined ranges of fairness.

Mr Bisson: What are those ranges for industrial, just ballpark? I won't hold you to it. Just so that I understand it better.

Ms Naylor: I'm sorry. I don't want to guess.

Mr Patten: We won't hold you to it; it's just on the record.

Ms Naylor: We could find that out and communicate it back to the—

Mr Bisson: Just the range, just so I understand it.

Dr Christie: I know what I think it is, but I'd rather give you the right number and not mislead you.

Mr Bisson: Could you get that? I'm asking the Chair of the committee if we can get an answer to that particular question. That's something I would like to have, specifically for the city of Timmins, and then I can extrapolate from that what it means. At what point in the taxation cycle will industrial-commercial taxes be in the position to be augmented at the same rate as residential and rural?

Mr Hardeman: They already are.

Mr Bisson: No, that's not the way I understand it.

Ms Naylor: Purely as an example, in a municipality where the starting point was that the tax burden on commercial classes was 2.5 times the tax burden on a similar value of a residential property, and if the range of fairness was two to one, they would have to either reduce the taxes on their commercial classes or raise the taxes on residential, or shift the burden without a tax increase. So there are a number of—

Mr Bisson: And some of them have done that. Kapuskasing, for example, I believe did that with Tembec.

Ms Naylor: A number of municipalities have been moving to introduce greater equity among the property classes through a range of tax-setting mechanisms—

Mr Bisson: What is that ratio? That's the part that I don't understand.

Ms Naylor: That's what we'll get for you.

Dr Christie: I believe it's 0.6 to 1.1, but we'll confirm that for you.

Mr Bisson: So when the industrial-commercial tax burden is from 0.6 to 1.1 of residential, then at that point. OK.

Dr Christie: No. Let's be—

Mr Bisson: Just so I understand.

Dr Christie: There are two classes of things happening. One is, as Nancy described, the ability to still increase industrial and commercial rates, but only in a way that gets you moving toward the range of fairness. It's also the case that in some municipalities that have extraordinarily high tax ratios for those sectors, above the provincial average, they can't raise those until they get back down to the provincial average.

Mr Bisson: I take it that part of the reason that all started is, for example, that in the city of Toronto you had a much higher concentration of commercial assessment, office buildings and stuff. That's more where you would have seen that?

Dr Christie: It wasn't so much the concentration. The concentration of the assessment would most affect the distribution of their revenue base. The tax ratios that you see reflect the cumulative effect of decisions of council over a very long period of time as to who should be taxed and who shouldn't.

Mr Bisson: We aren't going to go there, but that's a fairly interesting decision in itself. In the last part of your report—I forget what page it was; I think it's actually on the last page under "Recommendations"—your response to the recommendations of the auditor, you talked about determining why municipal tax increases between 1999 and 2000 were necessary, and you said you were taking that action. First of all, where is that at?

Ms Harding: All municipalities were asked, via a joint deputies' memo dated June 27, 2000, to provide an explanation and supporting documentation of why this increase was necessary. In addition, regional staff from the Ministry of Municipal Affairs and Housing were in contact with all of them to make sure that they could work with them to understand why those increases had been necessary.

Mr Bisson: Is that the first time the province has actually gone to a municipality and said, "Tell us why you raised taxes"? I don't remember that ever happening before. Anybody? In collective memory, did you ever hear it? I understand where that comes from, but it just seems to me that we're sticking our hand into their business far more than we probably should. That's just my comment.

My second question is, what are you going to do with it now that you've got the information? Is it the intent to go back and get that money back? What are you going to do at this point? If municipalities said 33.7%, and you come to the determination that there was no logical reason—according to the government's view—to do this, what the hell are you going to do at this point? Will you take the money back?

Dr Christie: The reason for asking for the information was, in part, to let us understand; if there were systemic things driving tax burdens in certain places, that we understood why that was. Also, because of the exchange of services, because the province is the other side of that exchange, I think it was certainly important for us to

understand what was happening on the other side as we continued to go forward with the review etc.

Mr Bisson: So it's the position of the ministry that it was only for information purposes, to better understand what the costs of the municipalities are etc? It wasn't with the aim of saying, "I want to go get that money now" by way of reducing transfers further to those winning municipalities?

Dr Christie: No.

Mr Bisson: Which brings me to the next question: what are the plans now with regard to those 72 communities that ended up on the positive side of the tax room argument? What is the plan there? Are you planning to make some sort of adjustment to their transfers?

Ms Harding: They don't get transfers.

Mr Bisson: In those services that we jointly share costs with, such as public health etc, my question is: for those communities that have been the winners in the tax room argument—the 72 that you listed; and you came back and gave other numbers. You broke it down in years at one point, and I wrote it down. Are you planning to do anything on that side with regard to making some kind of adjustment to the winners in order to compensate the losers?

Dr Christie: If I understand, the only way in which we could do that would be to have the degree of our cost-sharing vary with the amount of residential tax room, which we really don't know until after the fact. I think the design of this and of the community reinvestment fund was to have a uniform cost-sharing practice across these various services.

Mr Bisson: That's why I asked the question. At what point are you going to take this information and say, "Now we understand why those that had tax room were the winners, and we understand now those that are the losers, and now we are going to attempt to make some kind of an adjustment by an adjustment on the monies that are transferred"? Is that where this is going, or is this just purely for getting the data so that we better understand? I'm trying to figure out why we need that.

Dr Christie: As we indicated, it's important as part of this and also because a lot of this has to do—I mean, Municipal Affairs and Housing uses these data as well in terms of the specific numbers that came with this as opposed to the explanation.

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Mr Bisson: Maybe I have to ask the question of the auditor, just so that I understand what the purpose of those two recommendations was, because maybe I'm misconstruing what the recommendation is.

Mr Peters: It was part of the program.

Mr Bisson: Excuse me. I didn't hear. Sorry.

Mr Peters: I'm going by memory here at the moment, but my recollection was that it was part of the program, that the benefits should benefit the municipal taxpayer. That was part of the intention.

Mr Bisson: So the idea is that if they were the winners, was that winning then passed on to the ratepayer?

Mr Peters: That's the point, to the best of my recollection.

Mr Bisson: OK, so then my question back to the deputy minister is, is that what the plan is at this point, that if they were the winners in the tax room, is it your plan now to say, "No, you can't raise taxes because you have this room"?

Dr Christie: The auditor's reference to its being a benefit to the municipal taxpayer I don't think necessarily means that there would be tax action. What we've done in terms of that aspect of it has been, in these undertakings, to have—I think we mentioned earlier that in the forward-going undertakings the municipalities are being asked to provide us with the assurance that the auditor has mentioned.

Mr Peters: May I just—

Mr Bisson: Yes, go ahead, please.

Mr Peters: I'm referring to page 163 of our report. The intention was to avoid municipalities actually using the—

Mr Bisson: The tax room.

Mr Peters: No, the CRF funding they received and put it into reserves or otherwise use it in the municipal accounts. In other words, the government didn't want to give them the money so that they could put it to future use somewhere, into a reserve; they wanted it to benefit the ratepayer.

Mr Bisson: When I looked at the recommendation and the way the ministry presented it, you could almost read in that that there are other reasons why you would want to have that information.

Dr Christie: These are all sort of sub-points under one general recommendation. If we could find a better way to present a chart—

Mr Bisson: That's why I asked the question. That's why we have this process after you make your presentation.

The other thing is, we say about 72 municipalities gained due to the tax room that was provided by way of the changes we made. I take it, then, that means the difference between 72 and 447 were on the losing side? Is it straight math, as simple as that, that people who didn't have tax room ended up having to more or less rely more substantially on the CRF fund? I take it the answer is yes.

Dr Christie: We'll have our expert here address that.

Mr Bisson: I have to assume the answer is yes. While we're looking that up, at any point—are you ready? I'm going to go to the other part of the question if—

Ms Harding: I think I'm ready. Part of what is a little confusing is that the number of municipalities has changed every year; it has gotten steadily lower. Which year were you referring to?

Mr Bisson: I'm just asking, am I to assume when you say 72 municipalities were on the winning side of the tax room, that the rest of them were losers?

Ms Harding: I believe from reading the auditor's report that 72 municipalities had residential-education tax room that exceeded their gross LSR costs.

Mr Bisson: Do we have a sense of how many communities, in the process of the downloading and in the process of everything that has happened, are on the negative side of the revenue neutrality argument? The auditor is very clear in his report in saying this has not been revenue-neutral. Does the ministry have a handle on how many communities are affected and are on the negative side of that revenue-neutrality argument?

Ms Harding: I don't think I'd characterize them as being on the negative side.

Mr Bisson: OK, I'll ask the auditor.

Ms Harding: There are 468 municipalities whose net LSR costs are higher than their residential tax room. Every one of those municipalities receives CRF to make up the difference.

Mr Bisson: Just to be clear, from the auditor and the report, the way I read the report, you're saying this has not necessarily been as clear as the government would make it out to be as a revenue-neutral exercise.

Mr Peters: It may be a little bit more complex than that.

Mr Bisson: That's why I fudged the question.

Mr Peters: My recollection—and I gladly stand corrected by you, Bob—was that these were the municipalities where the tax room exceeded, as Ms Harding said. For the other ones, there is a mix where revenue neutrality can be achieved through giving them funding out of the CRF if they achieve the savings target. There are three: those that achieve the savings target and, even after they achieve the savings target, are still entitled to CRF funding, and others who don't need CRF funding to make them revenue-neutral.

Mr Bisson: I understand that part, but the question is, are there municipalities that are losers in this process? Are there municipalities that have gone into this entire downloading exercise—restructuring, all of that—who have been on the losing side? In other words, it ain't revenue-neutral, in simple English?

Mr Paul Amodeo: I think the answer to that question depends on how you interpret the savings targets. If you assume the savings targets are part of the equation, then all municipalities have been brought up to revenue neutrality. If you don't buy that argument, then every municipality that has had a savings target imposed is a loser to some extent. It depends on how you want to interpret that information, I think.

Mr Bisson: It could be construed that the numbers, as far as the savings targets that were imposed on municipalities, from 1.7% to 4.2% depending on size, were a way to get around the argument that it was revenue-neutral. I can construe it that way; I'm not saying you would say that, but the public or a municipality—and I take it you're agreeing.

Mr Peters: Some municipalities have certainly picked up the argument and said, "We didn't achieve any of it, and therefore we didn't get any money," and for others the government may have argued, "Yes, you achieved it, and therefore what we're paying is fair."

Mr Bisson: Are there municipalities that weren't able to achieve the targets? As I remember, the answer was yes, right? In your audit, there were municipalities that couldn't reach the savings targets, or didn't.

Mr Peters: Why I'm hesitating with the answer is the fact that we did not audit the books or examine the records of any municipality, so we can't really say. I would give you an answer that is based on newspaper reports or others, and I'm not quite comfortable doing that.

Mr Bisson: To the deputy minister, then, the question would be, were there municipalities that couldn't reach their targets or didn't reach their targets, for whatever reason?

Dr Christie: The targets were part of the design of the program. The municipalities were free, and continue to be free, to organize their budgets as they see fit. If they chose not to use the potential to find savings, that was their decision. The structure of the program and, if you like, the definition of revenue neutrality, upon which the program is based, includes savings targets for most of the municipalities that receive CRF—as we said, about 95% of municipalities are at that 1.7% level. If a municipality argues that it did not achieve its savings target, then in those cases, depending on what the savings target was—

Mr Bisson: Either reduce services or increase taxes.

Dr Christie: If it is arguing that it could not find, in this case, 1.7%.

Mr Bisson: Consequently, that municipality would have had to either raise taxes or reduce services, or do both, in order to adjust. Do we have a sense—in the work you did with regard to the recommendations, you must know which municipalities were in a position where they've raised taxes in the last year.

Dr Christie: I think we have those records, but one can't tell whether it's because—

Mr Bisson: I realize that. The other thing I'm asking is if we can get a list of the municipalities in the province that were in a position of having to raise taxes last year. How many were there, who were they and by how much? That would be interesting.

The Chair: It's right in the report. I think it's 245.

Mr Peters: It was 245.

The Chair: It's on page 163.

Mr Bisson: I didn't see that. Are there ranges?

The Chair: Yes, they range from 0.1% to 49.4%.

Mr Bisson: What?

The Chair: To 49.4%.

Mr Bisson: Oh, I heard "49." I would have—

The Chair: That's what I said: 49.4%.

Mr Peters: With an average of 6%.

Mr Bisson: Did you say 49.4? I'd like to know—

The Chair: That's what the report says.

Mr Bisson: I'd love to know where that was. Where was that?

Interjection: That's a percentage.

Mr Bisson: Oh, OK. I see what you're getting at.

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The Chair: We gave Mr Bisson about 25 minutes, so you will have 25 minutes, Mr Hardeman.

Mr Hardeman: I'm sure Mr Bisson had much more to say than I've got to say. I just want to very quickly make sure I understand it. I thought I had it fairly clear in my mind until I heard Mr Bisson speak about it. Now I want to make sure—

Mr Bisson: I either confused the heck out of you, or the question was really good.

Mr Hardeman: It's the issue of the tax rate, as I refer to it, under the farm tax rebate program. I don't know what the range of fairness is, the right numbers for that. But I do know that in my own community the industrial rate is 3.2%, farm residential is 1% and commercial is 1.9%. The problem isn't that without reassessment the municipalities under those circumstances can put an increased tax burden across the board. They're not changing the range at all. The 3.2% stays the same in comparison to the 1%. The only problem they ran into—and that's where my question came from—was, because the assessment went up on farms and the assessment went down on industrial-commercial properties, they can still not change the 1% and the 3.2%. So automatically, without changing the mill rate—if all had gone down at the same time, they would reduce the mill rate on all and they would not generate new money; they would generate the same amount of money with a lower mill rate on a higher assessment. But because we have a higher assessment in one class, we find the tax burden falling on that one class until we get it back to the 1%. We can't take the one down without increasing the spread between the two. That's why it's not the capping on any class; it's the fact that one class has grown much more than the other class. So to make it fair to all, you end up having a higher burden on that class because their values have gone up.

I really wanted to go on and question—I was going to avoid doing this again, but I want to know. Because the farm tax rebate program is being created as an active element as opposed to the dormant one, when we do the assessment for 2001 at the end of 2002, are we going to have a way to attribute that benefit to the property class that is getting the benefit?

We have a major shift, shall we say, because of the increased assessment. When the province picks up that 75%, does that go to the people who paid the extra tax or does that go across the board as part of municipal revenue? I don't need an answer on that, deputy. I just want to make sure that as we're going through this reconciliation we address those issues, in fairness, and that the people who paid it are the people who are going to benefit from it.

Dr Christie: That's a helpful clarification. The situation you're describing, of a significant shifting between classes, is not unique to farmland. It's something that is a matter of what are called transition ratios. When you have a reassessment that changes the distribution across the classes, there are transition ratios, which may or may not be adjusted in terms of dealing with that.

The farm tax rebate is part of the community reinvestment fund program. To the best of my knowledge, it does not interact with the tax structure, it does not determine what tax a municipality raises or how it manages its tax ratios. So what will happen is that if the value of the farm property has risen in that municipality, there will be a higher cost attributed to the farm tax rebate program and they will then be within the design of the community reinvestment fund. They will be eligible to capture that part of the cost, assuming that they're getting full CRF compensation, which has been one of the things that municipalities have worried about, particularly the rural ones, with the farm tax not being updated in those municipalities. Where the farm values were going up faster than the commercial values, they felt that they were losing out on CRF. So that is being addressed.

How they use that money in terms of what property tax they establish for the various classes is the decision of the municipality within the range of fairness and other features of the property tax system.

Mr Hardeman: The other one that kind of troubles me a little bit is the relationship between the upper and lower tiers, when we talk about the total number of municipalities, those that benefit from it and those that we talked about earlier that need the CRF in order to balance the fairness in the program. When we talk about the realignment of services in Oxford county, except for the farm tax rebate and policing, all the others went to the upper tier, so there was no relationship between the two. When we talk about 447 municipalities, that includes the county and the eight lower tiers. Does that mean the eight lower tiers are in the 70-some that had no impact and the upper tier has all the impact, or the other way around? How do we keep that straight?

Ms Harding: I'll try to explain. I think your question is a fairly technical one.

Mr Hardeman: I studied all night for that.

Ms Harding: OK, let's see if I did. In designing the model, you're right, there are two kinds of municipalities: upper tiers and lower tiers, as well as single tiers. Some costs are typically paid for at the upper-tier level and some at the lower-tier level and we had to have a model that was flexible enough to deal with all of those situations. The way we've done it is through residential education tax room. Residential education tax room at the upper tier is essentially a construct. The way it works is that the upper tier is assumed to need enough residential tax room to cover upper-tier services: ambulance, child care, social assistance, that kind of thing. The upper tier gets all of the residential tax room, or enough to cover all of its services, whichever is lower, and anything else goes to the lower tiers to split up between them. That's how that works.

Mr Hardeman: OK, thank you. I was really going somewhere else with that. I was going to the size of the savings and how it impacts differently: are the numbers different for the size of the municipalities? I wanted to get to Ottawa and I wanted to make sure we didn't get

through this whole discussion without mentioning Ottawa. In restructuring municipalities, we know that the rate if you're below 100,000 people is 1.7%, and if you're over 500,000 you are at 4.2%. I wanted to make sure I understood that the pre-restructuring numbers of the size of the municipalities are being used in the CRF funding.

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Ms Harding: In the savings targets? They are.

Mr Hardeman: So in Osgoode township, what was previously Osgoode township, in the CRF funding, the number used for their savings would be 1.7, as opposed to the over 100,000 that are now part of the city of Ottawa.

Ms Harding: We didn't adjust them.

Mr Hardeman: So in all cases where they were at the smaller size before restructuring, the CRF funding is based on the lower of the cost savings.

Ms Harding: It's based on their original savings targets. They have not been adjusted.

Mr Hardeman: OK. I just wanted to make sure.

The other one: in the reconciliation, the policing one was mentioned earlier by someone else, and I wanted to make sure I understood it, that in fact we would use actual costs in reconciling the figures for 2001. I didn't get a clear answer on improved services. If the municipality decided since 1998 to dramatically increase the size of their police force after the transfer, do we cover the increased cost in the reconciliation, or is that based on the level of service that was provided? I think that's rather important. I think it's where Mr Bisson was coming from too, as to what we can use to cover the cost.

Ms Harding: It depends on the type of police force that's in place. If the municipality is receiving services from the OPP, the costs entered in are based on actual costs. If there's a municipal force, the costs are maintained at the point of devolution.

Mr Hardeman: I think my colleague has some questions.

Mr Gill: Thank you for leaving me some time.

The Chair: There's lots of time.

Mr Gill: The LSR implemented about five years ago in terms of the city of Toronto, the biggest municipality, if you want to call it that—how have they benefited or not benefited from it?

Dr Christie: The city, in terms of the exchange itself—we talked earlier about the balance on the numbers and what they had talked about in terms of the gap, or lack of a gap, in terms of the gross LSR cost minus the residential education tax room. We also noted the levels of savings that the city itself has identified, over \$300 million over the same period of time as the auditor identified, \$140 million on the other side.

Of course, there are a number of other investments that have been made in Toronto as part of the number of transitional activities that were underway that we mentioned earlier. So, for example, Toronto received \$829 million with respect to transit, and that was supplemented by another \$50 million about a year ago; they received

\$50 million—and this is all over and above LSR in particular—to finance transportation and communications projects; there was \$500 million for the city for the waterfront; there was \$53 million through the municipal capital and operating restructuring fund with respect to GO Transit; and there was \$200 million in interest-free loans.

Mr Gill: I understand there was also \$100 million in interest-free loans and subsequently another \$100 million?

Dr Christie: That's right. That's the \$200 million I referred to.

Mr Gill: Do you know the terms on that, when they hope to repay that?

Dr Christie: It's repayable in instalments. I think we've received the first instalment, have we not?

Ms Naylor: I'm not sure. There's a preferential pay-back schedule on those loans that's staggered over time.

Mr Gill: Despite what you hear, all the doom and gloom in terms of the city finances whenever they come up with a budget, I understand that for the first three years there was no tax increase to the homeowners in Toronto, and then there was 5% and now they're talking about 4.6%. Using the opposition's wording, if the down-loading was so bad, why was there no tax increase for the first three years?

Dr Christie: For the first three years, if they were short in the larger amounts that they've talked about—they've identified much larger amounts than the Provincial Auditor's report did. If they were short in those amounts, I can't tell you how they were able to avoid increasing taxes. The only way I could see would be significantly changing their service structure, which I didn't see happen. So I can't explain how they did it. I'll certainly follow up with them, because we may need some of those tricks.

Mr Gill: Last year a 5% increase, this year a 4.6% increase; what does it mean in finite dollars? How much extra revenue is it going to be?

Ms Naylor: We met with the city staff and they explained their proposals for the budget, so their estimate was that the 4.6% tax increase on residential properties this year would raise just short of \$50 million. That would go in to the types of pressures that they've identified for the council members.

Mr Gill: Thank you. I think my colleague has further questions.

Mr Hardeman: A quick question. Earlier, we discussed the roads, that were not a part of the LSR. Am I wrong or right in assuming that the supplementary special circumstance funding, particularly in northern Ontario but also in eastern and southwestern Ontario, where there was an extensive transfer of roads, was used to help municipalities accommodate the transfer of the roads?

Dr Christie: I'm not sure what use the municipalities put the special circumstance funding toward. We'll check with municipal affairs and see if we can get the answer to that for you.

Mr Hardeman: I have one other question I'd like to ask the auditor, and maybe he doesn't want to answer this because it's not directly related to the auditor, but it's related to my colleague's question about the city of Toronto and the cost of the realignment. As they have suggested a number of times, there's a massive cost of doing that. Your audit shows that if we don't take the savings into consideration, it's \$142 million. But from a budgeting and auditing process, when you find a year when you have an added cost, regardless of what the cause of it is, you increase your budget to cover that cost. Does that cost keep creating the need to increase your budget, or because you increased it last year, isn't the next year the base budget to cover all of the expenditures? From an auditing point of view, can you increase the budget more than once for the same expenditure?

Mr Peters: I think the way you put the question, you shouldn't.

Mr Patten: You do it, you just don't talk about it.

Mr Peters: When you do increase the base budget, then that means of course you have this budget increase in the next year, and the next year and the next year. That's fairly clear. That is often very much the idea behind cost-cutting, because you are saying, "We are going to cut so much this year, but that means we are going to cut that out of the budget in perpetuity." That's the idea and it would be the same in reverse, in the example you have chosen. If you have a cost increase, then that cost increase is in the base budget until you take it out.

1500

Mr Hardeman: So it's reasonable to assume, if last year's budget increased by 5% to cover all the costs, regardless of where they came from, that will increase the amount of money, the 4.6% we'll raise this year, because it will also be another 4.6% on the 5% that we increased last year.

Mr Peters: If it's an add-on, yes, of course it will increase it. In the one year, it increased by 5%. This year it will increase by 4.6% on top of that. I hope I understand your question.

Mr Hardeman: I think you do, yes. Thank you very much.

The Chair: The Liberal caucus, and after Mr Patten gets through, I would ask him to take the chair so that I could ask some questions as well.

Mr Patten: Absolutely. Going back to the point of the impact on neutrality, the auditor concluded at one point, "The CRF as structured at the time of our audit was working against its objective of ensuring the revenue neutrality of the LSR." Anybody following this on TV is going to have a difficult time. "It has led to differing impacts on individual municipalities."

As I read the report, while the auditor did not say this was conclusive, the indications were pretty strong that there was a growing concern about revenue neutrality. But that's not my question.

My question is related to this: as I hear all of this information, I hope the auditor, in the follow-up to his

audit in 2003, will look at the cost of this total program and what this has meant, because it seems to me, with all of the variables, the responses, the additions of this, making adjustments for that and all the efforts to at least convince somebody that this is all very good for them—presumably the taxpayers and the voters—at the end of the day, most municipalities and certainly most individuals in Ontario have experienced an increase in user fees, an increase in property tax and a lower quality of service. I get this by talking to not only individual friends, neighbours and people in my riding but to people in other communities and at the municipal level.

One of the reasons for the pressure on Toronto today is because of the fixed terms in their relationship of funding with the province which don't take into consideration the growth factor. You're always asked for more every year. If you're a growing community, what are you going to do if you have responsibility for welfare and you have more people coming in? As welfare drops, there should be a reflection of a drop, and that's fair enough. So that could be a shared arrangement—which it is—with the province, and that could be reflected and certainly justifiable, but the fact of the matter is that Toronto keeps growing, Ottawa keeps growing and most of the major centres keep growing.

I don't want to leave behind conceptually people who are not in this category, but the people who are not in our towns and cities have a very important contribution to this province, because many of them are farmers. They are the people who grow our food and are extremely important to Ontario and to any jurisdiction, for that matter.

Interestingly enough, Ottawa now has the largest geographic percentage of land mass. It's the largest municipality that has a farming community, in other words. I'm sorry Mr Hardeman isn't here, because I think it relates somewhat to the pressure on farmland and farm residents. That, in and of itself, pushes and increases the propensity toward agribusiness and massive pig farms and all that kind of thing, which we're going to have to face in another fashion.

When I look at the relationship between the federal government and municipalities and the municipal government and municipalities, the responsibilities that municipalities have, in and of their own right, and they have only this narrow band of taxation, in other words, revenues, to generate, with increased pressure to produce and cover their programs, it's difficult not to conclude how paternalistic we really are at the provincial and federal levels. I will say that personally. It is a very arrogant and paternalistic relationship. We know best for somebody else, or at least we have the control, we maintain the control and we'll keep the squeeze on the municipalities. Something has to give when 90% of the people in this province, and most Canadians, live in towns and municipalities. Is there any discussion going on in finance or in the Ministry of Municipal Affairs and Housing talking about re-engaging with municipalities on a different basis of either decision-making—you'll

probably say you are, on decision-making—or cost-sharing or making decisions or on sources of revenue that are not available to municipalities at the moment?

Dr Christie: I'll just make an observation about municipal affairs. I know there's a new Municipal Act that's trying to address that in very large part. The general tone of the relationship that you flagged is part of what the Municipal Act is trying to deal with. The Ministry of Municipal Affairs is, I know, working very hard to establish a good working relationship, a good interchange of information with all of our municipalities.

In terms of the cost side, the short-term answer I guess was the consultation we talked about last spring. The longer-term answer may well deal with the bigger questions around distribution of responsibility and of taxing authority. It may well be that the federal government would need to play there as well, given the imbalance between some of the federal revenue sources and their responsibility.

Mr Crozier: I want to go way back to Who Does What. The original exercise was to give Mr Crombie—I can't even recall, it's so far back, whether he acted alone; he certainly consulted to some great extent. It was all about accountability. The question I'm going to ask, I don't expect you to just say absolutely yes, but maybe you can tell me that we're working toward it or that it isn't perfect yet. We took that accountability, we went through the process to find out who is responsible for what, we determined that, or at least Mr Crombie did, but then we started to convolute it with, "If you're not totally accountable, we'll give you some money; and if you reach certain savings, we'll give you some money." Help me. Is it something we're still in the process of and working toward?

Dr Christie: I would characterize some of the discussions that Nancy and Liz have talked about with the municipalities in terms of implementing CRF, in terms of thinking about where to take it, as a microcosm of working toward that. This program clearly covers only a small portion of municipal activity and isn't broad enough in itself to address the question you ask, which is a very broad question and a very broad issue to deal with. I think within the realm of what we're trying to deal with, municipalities are very concerned about improving accountability, as are we. As you can tell, there's a formidable amount of detail in these things when you become involved in it, and we're working through the detail with them to try and make this work well and make the kinds of changes they want to improve their ability to administer the program.

Nancy, do you want to add anything to that?

1510

Ms Naylor: The only thing I would add to that is that the province and the municipalities have agreed to some quite formal mechanisms for holding ongoing discussions. We've recently concluded a memorandum of understanding with the Association of Municipalities of Ontario that provides for very regular meetings between the representatives of the province and the representat-

ives of the municipal sector, and that also represents an undertaking by the province to consult in advance on anything that would affect the financial health of municipalities within the current fiscal year. That's a formal mechanism.

There are also a number of informal mechanisms, and it would probably not be a stretch to say that we're in touch with them almost daily on one aspect of the financial health of municipalities or another.

Mr Crozier: I'll just conclude by saying I wish us all luck, because I just don't get the feeling that we're there yet. We have 95%, as we said earlier, of municipalities that are under 100,000, and I don't know what the other breakdown is. We've got rural; we've got urban. It certainly was a broad question and it's a broad problem, so I just hope we're going forward and not backward.

Mr John Gerretsen (Kingston and the Islands): I've got enough questions here that we could be here until 9 o'clock tonight.

On this last point, I suppose there's a tendency for every government when it comes along to think that they're doing something for the first time. I'm sure that Mr Hardeman can agree with me, because he and I attended many of these meetings back in the 1980s, that the notion of AMO representatives meeting with ministry folks on a regular basis has been going on for years. We used to have monthly meetings with the Minister of Municipal Affairs back in the 1980s, during the Davis years, the Peterson years. I wasn't there during the Rae years, but I'm sure they happened as well at that time, and other ministers were brought in to discuss the issues of the day.

I have some great difficulty with this whole notion of the provincial government feeling that it's part of its mandate to make municipalities more accountable. I dare say that most municipalities have been extremely accountable and are much closer to the people on a day-to-day basis. I can tell you that the kind of scrutiny that a municipal budget gets on an ongoing basis in all of our municipalities, particularly at this time of year, would beat any process that takes place here at the provincial level, where the estimates process is just a laugh, where by rules and regulations you're limited to X number of hours and you can only really ask questions that delve into one part of a particular ministry. When I compare that to the municipal level, where most councils that are conscientious—and I'm sure you've got the odd council that perhaps isn't—go over each expenditure item or classification in a very, very thorough fashion, I take great exception to the fact that somehow municipalities aren't accountable and the province has to jump in to make them more accountable.

I find it kind of interesting, for a government that wants to make things easier, that in the whole notion of the way we fund local municipalities with all of these different programs, we've certainly made it a lot tougher. Anybody out there who's been watching this for the last three or four hours must be shaking their head at this point in time.

I'll give this government one thing: they've been very smart. They've been extremely smart in bringing in restructuring, realignment or downloading and re-assessment all at the same time, because it made it almost an impossible target then as to who to blame for what any more. I think the people out there, the taxpayers out there, are extremely frustrated about that.

Let me just ask you this. Right now the province of Ontario sets the education tax. This is one issue we haven't talked about at all today. At one time the education tax, as far as the property taxpayer is concerned, used to be set by all the various boards of education. The province of Ontario does that now. Will you not agree with me, sir, that with one stroke of the pen, the Minister of Finance, after having talked with his staff and what have you, can make the total amount of money that the provincial government wants to raise at any given time for education purposes on the property tax base of this province—he can change that amount on a moment's notice, with the stroke of a pen. Would you not agree with that?

Dr Christie: I'm not sure about the moment's notice. I think there are probably some—

Mr Gerretsen: Twenty-four hours' notice, whatever.

Dr Christie: It is certainly the case that the province has the control of that rate.

Mr Gerretsen: Right. And how many dollars are we talking about that are currently raised on the property tax base of the province for education purposes?

Dr Christie: Nancy knows it exactly to the hundredth of—

Ms Naylor: It's \$5.7 billion in the current school year, 2001-02. That's the estimate.

Mr Gerretsen: So \$5.7 billion of the property taxes of this province collectively are completely controlled by the Minister of Finance, who, by regulation from year to year, can set the total amount of that, and then how it's worked out to the various municipalities obviously will take some doing. But he or she can do that on a moment's notice. If, for whatever reason, it were necessary to have a drastic increase in any given year, then all of these other programs that we're talking about become meaningless, don't they, or they won't really affect that decision at all?

Dr Christie: Certainly the funding of municipalities through the community reinvestment fund is by and large unaffected by decisions made on education financing. I'm trying to be sure I have the point and I'm not getting off the line. As education funding currently works, as you know, there's a funding formula that determines on a certain basis resources by school board. The education property tax provides some of that amount and the province pays the residual in cash. I'm not quite sure of the situation that you are describing, but—

Mr Gerretsen: The situation I am describing is that you could follow all of your formulas and try to be as equitable as possible under the CRF and the whole business, but if the Minister of Finance in his capacity of raising education tax dollars on the property tax base

were to make a decision that is drastically different from the \$5.7 billion in any given year, that entire equilibrium could be changed overnight with that decision.

Dr Christie: With respect to the municipal side, there's no direct impact of either a large—well, the government has announced large tax cuts in both business and residential education property tax, and those have not interfered with municipal funding. There is an impact on the amount of cash that's paid to school boards under the education funding formula—if there's less tax, there's more cash. But I'm not aware of a direct linkage between changes to the education property tax rates and—

Mr Gerretsen: Let me put it as simply as possible. If the province decided this year that it wanted to raise \$6.2 billion instead of \$5.7 billion for education purposes on the property tax rate, that extra \$500 million would be immediately reflected in the year that it applies to the tax bills that the real estate taxpayers of Ontario get.

1520

Dr Christie: There are places in the year where you'd have to do it for timing purposes, but the Minister of Finance does have the authority to change the property tax rates. Yes, he does.

Mr Gerretsen: Right. And as a result, property taxes would go up if he were to do that.

Dr Christie: Or down, if he cut them.

Mr Gerretsen: This isn't a trick question.

Interjection.

Mr Gerretsen: Oh, no. Hopefully more than that, please.

What is the status currently of the municipal performance measurement program? Maybe it's been talked about earlier. What's the status of that?

Dr Christie: That's a program that the Ministry of Municipal Affairs and Housing is running with the municipalities. I don't think we could tell you. We're not involved in that. I don't think we can help you directly.

Mr Gerretsen: Isn't that part of the report card mechanism that you've introduced that the municipalities like so much? I'm being facetious when I say that. Isn't that part of that? Don't you have an interest in that?

Dr Christie: The Ministry of Municipal Affairs and Housing has accountability mechanisms and reports and performance objectives etc that they deal with the municipalities on. But as I say, that occurs through municipal affairs and housing.

Mr Gerretsen: So you, as the Ministry of Finance, have no interest in that?

Dr Christie: We have a general interest, as the Ministry of Finance, in how public money is spent. We have, again, a general province-wide interest in high standards of good financial reporting, high standards of accountability and good financial management, including dissemination of best practices. But we don't have a specific focus on municipalities. Our concern would be more if there was a provincial framework or provincial standards that were felt to be valuable throughout the broader public sector. But individual application in an individual sector would be done by the responsible ministry; in this case, municipal affairs and housing.

Mr Gerretsen: OK. I've got a number of other questions.

In the revenue neutrality purposes of the community reinvestment fund—and let's take as a given the fact that you're trying to make it revenue-neutral, or that's what the program is all about—what is built into it is the fact that there will be municipal savings targets of \$500 million. Is that not correct?

Dr Christie: That's correct.

Mr Gerretsen: So is the net result not the fact that if you want the municipalities, through savings, to come up with this \$500 million, this is \$500 million that the province no longer has to come up with if none of this had ever taken place?

Dr Christie: In terms of the arithmetic of the formula, if the province had not structured it in this fashion, there would have certainly been—it's possible as a result of that that it couldn't have afforded to do the community reinvestment fund to deal with the impacts in some of the smaller municipalities. So how you assign dollars is—

Mr Gerretsen: I guess what I'm saying is that when the province keeps saying that all of these things are revenue-neutral, it is based on the premise that local municipalities will find \$500 million in municipal savings that, if none of this had ever happened, they still would have had in one way or another. In other words, the government is paying to local municipalities in effect \$500 million less than they used to at one time.

Dr Christie: Do you want to comment on that, Nancy? I don't think I'm explaining it clearly, so we'll take another—

Mr Gerretsen: If it's part of the equation and the equation comes out to zero, and you expect municipalities to save \$500 million, if none of these changes had ever taken place, then the government would still be paying that \$500 million into programs that it paid for prior to implementing the local services realignment plan.

Dr Christie: If municipalities had never saved any money as a result of the restructurings, the amalgamations and the opportunities to restructure programs that were part of this; is that—

Mr Gerretsen: Yes. So do you agree with me or not?

Ms Naylor: I think we would take a different view of how that arithmetic worked. But I think what's also fair to say is that when the province laid out the mechanism by which the local service realignment would take place and the expectations that realignment would include in terms of savings targets for municipalities, they were reflecting the fact that at both the provincial level and the federal level, and certainly in other jurisdictions, what was facing all levels of government was a need to look at their own services and the opportunities that were presented—for example, by technology—to deliver comparable services or better services for perhaps less money. Some of those efficiencies had been realized at the time of the trade; some of them were yet to be realized. We have seen that the cost of some of the programs that were devolved have declined since the

devolution. So that has been a benefit to the municipalities that perhaps doesn't show up in very concrete terms in the arithmetic.

Mr Gerretsen: OK. Dealing with page 163 of the auditor's report—and I'll just read it to you in case you don't have it right in front of you—it said, "A summary of the submitted tax rate data indicated that 245 municipalities had increased tax rates between 1999 and 2000. The increases ranged from 0.1% to 49.4%, with an average increase of approximately 6%. Only 43 of these municipalities voluntarily provided information on the circumstances surrounding their tax rate increases, and there has been no follow-up by the ministry to obtain information on the reasons for the remaining increases." Why? If you only heard from 43 of these municipalities, why did you never follow up on that?

Ms Naylor: I think what's fair to consider too is the timing of when municipalities submit their financial information returns to the Ministry of Municipal Affairs. Those FIRs obviously detail the municipality's financial position and any changes in their position over the course of the year; for example, transfers in and out of reserves, and any levies that they may have gone to their community for. I believe that the figures in the auditor's report preceded the action taken by the deputies recently when they wrote to the municipalities to ask for the explanation of the tax increases. So we're getting those in. Certainly, the regional offices of municipal affairs and housing are also following up, because we're quite interested in that data.

Mr Gerretsen: Another area: municipal information requirements. I'm surprised that Mr Hardeman, as a former municipal councillor, didn't ask this. You know how municipalities always feel that they are getting advice too late in the game—what, in effect, they're getting from the province in one way or another. I'm reading from page 10 of the—no, actually these are our research notes—but this comes out of page 166 of his report. The Provincial Auditor recommended, "To improve municipalities' ability to accurately project provincial funding when they set municipal tax rates and to facilitate the accurate reporting of such funding in municipal year-end financial statements, the ministry should work to improve the timeliness of the information it provides to municipalities regarding community re-investment fund entitlements." Can you tell me anything about the timeliness? Do municipalities know now, as of today, what they're getting this year?

Dr Christie: Yes, sir, they do.

Mr Gerretsen: When were they advised?

Dr Christie: That was given to them last fall.

Mr Gerretsen: Are you going to do this on a yearly basis?

Dr Christie: That will be done on a yearly basis.

Mr Hardeman: We discussed that.

Mr Gerretsen: I just wanted to make clear that I heard that correctly. If that is so, I would like to congratulate you on that because this has always been a stickler, as far as municipalities are concerned. Thank you very much.

Mr Hardeman: Just a couple of comments. I won't want the 20 minutes. In response to Mr Gerretsen's comments, I have no reason to disagree with him on the accountability of municipalities, but I think it's important that the reason we're here today to discuss the CRF funding and the program with the ministry—and we commend you for the way you've explained it to us today—is because the auditor says it's very important that we follow up where government money is going. I've been a municipal politician for 14 years. I think it's very important to recognize, as Mr Gerretsen said, that most municipalities will do exactly what they should and do a very good job, but we have a responsibility on behalf of the provincial taxpayer to make sure that all municipalities are meeting the goals of the program. I think the auditor pointed out that there are some areas where we were not as diligent as we might be in following that up, to make sure that we follow the money to its final conclusion. I think it comes out in the report.

It's not good enough to just look after those who need to get more money through the CRF funding. What about those who are getting a windfall in this program? Is that also not taxpayers' money that needs to be looked at? I think that's why it's so important that you have addressed the issue of the reconciliation, not only in the negative, but on the positive side of it too. People who got more than they should get will have to come good for that in the first quarter of the following year. I do commend the Chair again for bringing forward the issue of the timing to make sure that municipalities do know considerably ahead of time.

The ministry has gone further than just trying to notify them as quickly as possible. They've actually put the timing in the previous year, as opposed to in the new year, to notify them how their grants will be this year. They notified them last fall what the money will be for the coming year. Then, when we reconcile the year 2001 at the end of this year, we'll fix that up in the following year, so they will always know at the end of the previous year what they would be entitled to in the next year. I commend them for that.

With that, again, just on behalf of the government, I want to thank the ministry staff for a job well done in making the presentation here and explaining some of the things that I didn't understand. I'm sure that my colleagues on both sides here are very much more enlightened with the discussion we've had today, and we thank you for that.

The Chair: Is there anyone else? Thank you very much for your attendance, not only today but also on previous days. We thank you for your attendance and answering the questions today. Undoubtedly, you'll be receiving a letter from us asking us for some of the information that came up during the meeting that you were going to provide us with.

With that, the hearings are adjourned until 1:30 tomorrow afternoon. Thank you.

The committee adjourned at 1532.

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Official Report of Debates (Hansard)

Thursday 7 March 2002

Journal des débats (Hansard)

Jeudi 7 mars 2002

Standing committee on public accounts

Public Sector Employees'
Severance Pay Disclosure
Act, 2001

Comité permanent des comptes publics

Loi de 2001 sur la divulgation
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STANDING COMMITTEE ON
PUBLIC ACCOUNTSCOMITÉ PERMANENT DES
COMPTES PUBLICS

Thursday 7 March 2002

Jeudi 7 mars 2002

*The committee met at 1330 in room 151.*PUBLIC SECTOR EMPLOYEES'
SEVERANCE PAY DISCLOSURE ACT, 2001
LOI DE 2001 SUR LA DIVULGATION DES
INDEMNITÉS DE CESSATION D'EMPLOI
DES EMPLOYÉS DU SECTEUR PUBLIC

Consideration of Bill 53, An Act requiring the disclosure of payments to former public sector employees arising from the termination of their employment / Projet de loi 53, Loi exigeant la divulgation des versements effectués aux anciens employés du secteur public par suite de la cessation de leur emploi.

The Chair (Mr John Gerretsen): I'd like to call the meeting to order. Good afternoon, everyone.

Today we're here to deal with Bill 53, An Act requiring the disclosure of payments to former public sector employees arising from the termination of their employment. It's Mrs Bountrogianni's private member's bill that's here for debate and for public input, and we'll start off with an opening statement by Dr Marie Bountrogianni.

Mrs Marie Bountrogianni (Hamilton Mountain): Thank you, Chair, and I thank the committee for meeting today to discuss this bill, Bill 53. I know it's a very busy time for everybody. I really appreciate it and I believe I speak for the majority of the public when I say the public appreciates democracy continuing despite our busy schedules elsewhere.

Bill 53, as the Chair said, is An Act requiring the disclosure of payments to former public sector employees arising from the termination of their employment. This is my second attempt to bring accountability to this issue. I tabled another bill about two years ago which was much more detailed. It was criticized as very bureaucratic; there were term limits; there were phases. It was modelled after a British Columbia bill which basically had a lot of limits, a lot of steps and a lot of bureaucracy. I admitted that and, although the bill died when the Legislature was prorogued, I thought if I brought forward a simpler bill perhaps the chances of it passing would increase.

This bill is basically an extension of the government's sunshine law which was passed a few years ago which states that public employees making over \$100,000 a year should have their salaries published every April for

the public to know how much they are making and who is making that money. My bill states very similarly that public sector executives who make over \$100,000 in severance should have that information public upon termination.

This has nothing to do with interfering with contracts. This information would be made public after a contract is signed, although I'm very interested in what the privacy commissioner would have to say about that aspect and any other aspect of the bill, as well as my colleagues around the table.

Why this bill? First of all, I had very little idea of the amounts of severances going out to public sector executives in this province before a local issue in my hometown of Hamilton came up almost two years ago when a hospital was slated for downgrading and then eventual closure. We won that fight in Hamilton, and to the credit of the government, they came through and gave money for the hospital to remain open. There were many challenges, but that part of the fight was won.

What came to the fore was a lot of information that wasn't public that we had to obtain or that reporters had to obtain through freedom of information on the severance packages for some of the CEOs. The famous one is the Dr Jennifer Jackman severance of \$1.8 million when she left on unfavourable terms from the hospital at a time when we were laying off nurses. This was the mid-1990s. But there were many, many more, and the issue here isn't so much the amount of money but the fact that, as taxpayers, as citizens, we didn't have the right to pick up the phone and ask Chedoke—at that time it was called Chedoke—"How much is this executive leaving with?" And we still don't have that right. That is the part that I find very undemocratic and unaccountable.

Now, we're hoping this will have implications for the amounts of money, because if these boards know that the public will have the right to ask that question, perhaps they will be more careful when drawing up the contracts. No one is saying that people shouldn't be making good salaries or good severances; they should be reasonable and they should be made public.

When we did some research for my initial bill, and then for this bill, we found that this was pervasive in the province. I'll give you a few examples from my hometown and also from across the province. I won't mention names but I'll mention positions. The Ottawa Transition Board, for example, bought out a former acting regional

chief for \$600,000; a former commissioner of engineering and public works, \$408,000. I want to remind the committee that this information was not readily available. It had to be obtained through freedom of information. Just very recently in Hamilton, a former city manager: \$359,000, we think, because that did eventually go the courts. City of Toronto, a former chief administrative officer: \$500,000; Hydro-Ottawa, a former secretary-treasurer and director of finance: \$309,000; and very recently—this was published all over the papers—a former Ontario hospital CEO: \$750,000.

The Ottawa Sun published an interesting article which talked about what can be obtained for \$750,000. It can obtain health care for 426 people between 15 and 44 years old for one year. It can obtain 27 defibrillators for the city or a nuclear medicine camera, valuable for diagnosing strokes, Alzheimer's, coronary artery disease and other ailments. One severance package could have covered one of these for a year.

Getting back to Hamilton, very recently a former president of Mohawk College received a severance. Again, we don't have the right to find out how much she received. She left, I believe, two years before the end of the contract, not on favourable terms. Morale was very low.

I want to emphasize that I'm not criticizing the individuals themselves who receive these monies. It's human nature to look out for yourself. I know from my profession that you can rationalize deserving anything. Particularly if there's bad blood in your organization and you feel like you're forced to leave, you can rationalize that you deserve any amount of money. These people are not breaking any laws. They've got their contracts, and if they're let go or they're forced to go, they're going to take care of themselves and they do. They're not wrong. The law is wrong and that is what I'm trying, and my caucus is trying, to remedy here. I must say that this bill passed with unanimous consent and I thank members on all sides of the House for supporting the bill.

A couple more examples: a Windsor Regional Hospital former CEO, \$675,000 in severance; another one, \$250,000. There were a number of amalgamations over the past few years and these amalgamations led, of course, to many people taking severances. We know some of them from freedom of information but we don't know the majority. The biggest one that I could find, aside from Dr Jennifer Jackman in Hamilton, was a former CEO of Ontario Hydro: \$942,000. I can't imagine that. This isn't IBM, Pepsi-Cola or Coca-Cola, where shareholders agree to give vast amounts of money in these contracts. This is us. We are the shareholders here. At a time when we could be using these millions, at least in my community and I'm sure across the province, for other reasons—for health care, for education—we are basically giving an open ticket to public boards to say, "Well, if the easy way out is a bigger payout, let's get rid of this person." What they really should be doing is being very careful when they're hiring, because it's our money and that money can be better spent in other areas.

In Hamilton alone it was \$2.5 million in golden handshakes and that's only in the hospital sector. That does not include the education sector.

I'd like to cite some media quotes:

"The public's right to know about matters involving taxpayers' money is neither a privilege nor a favour. It's a right, one that needs to be enshrined in law.

"Elected officials have the privilege of spending public money and have the responsibility to do so wisely."

"Severance payments given to public sector managers are often so enormous as to be in the public interest."

"Severance packages that collectively add up to millions of dollars require scrutiny. The agreements to pay them require accountability."

"Once and for all, let's end secret severances.... Queen's Park has the means."

That was from the Hamilton Spectator.

The Ottawa Citizen in March 2001 said, "Severance payments to municipal employees have created a firestorm of protest from Ottawa residents."

The Toronto Star in February 1992, so obviously this isn't a new problem: "Cash strapped St Michael's Hospital is dumping its highly paid and highly touted new president for a rumoured \$360,000 in severance pay."

My colleague Caroline Di Cocco also cited some examples in Sarnia of some obscene severance packages, which led, by the way, to her bill on openness, which I know has passed by your committee.

1340

Mr Wettlaufer, from the government side, when debating my bill in the House, cited some research. He looked into the laws in British Columbia, Alberta, Quebec and Ontario. "In British Columbia, for instance, there is no specific legislation, but BC's Freedom of Information and Protection of Privacy Act covers the issue. The Information and Privacy Commissioner has held that severance packages constitute remuneration or discretionary benefit of a financial nature under the act and, as such, disclosure of the amount is not an unreasonable invasion of personal privacy. Alberta also has no specific legislation, is also covered by the province's Freedom of Information and Protection of Privacy Act," which states that it does not "constitute an unreasonable invasion of the employee's personal privacy and that disclosure was therefore permitted.

"Quebec also does not have a specific statute." But personal information is allowed, including the amount of severance to be made public, and is disclosed.

In our act, certain severances and salaries are disclosed; the ones I'm talking about are not, and that is simply what this bill is trying to address. It's not a new bill. There are a lot of similar bills out there. It's basically closing a loophole where accountability is suffering.

Again, I'd like to just cite from the debate on the sunshine law back in 1995, from the Tories' bill on the sunshine law, what the then privacy commissioner talked about. He said, regarding that law, that the public needs to scrutinize transaction of public bodies "when such

scrutiny is necessary and appropriate." Access to general records "is one of the public's most powerful tools for exerting democratic controls over public institutions. In challenging times such as these, the public's ability to scrutinize the workings of government must remain a vital part of a democratic process.... "To be well governed is to be well informed." That's from Mr Tom Wright, privacy commissioner of Ontario back in 1995 when presenting at the committee for the sunshine law.

If there is anything in this bill that requires changing or amending, I would be very pleased to hear it. I do hope that it does pass. Again, it's a simple bill. Simply put, severances over \$100,000 need to be made public. This will, I believe, make public boards more accountable with our money. It will increase morale in public institutions, particularly at a time when, again, people are being laid off or may be laid off. It's much more difficult to accept job loss when you hear about these golden handshakes. So this is also an issue of morale, it's an issue of accountability, it's an issue of good management. We need, I believe, to be role models on the government side, and this will trickle down to the public boards and institutions.

Again, I thank the committee for meeting today. I know it's a very busy day for everyone and a very busy time for everyone, and I appreciate you keeping your schedules. There was some talk that it might change. I appreciate that it wasn't changed, and I look forward to the presentations, questions and comments.

OFFICE OF THE INFORMATION AND PRIVACY COMMISSIONER

The Chair: We have a number of presentations on the bill today. The first presentation will be by the Office of the Information and Privacy Commissioner of Ontario. I believe that Mr Tom Mitchinson, the assistant commissioner and head of tribunal services, is with us this afternoon. Good afternoon.

Mr Tom Mitchinson: Good afternoon. Thank you, Chair.

The Chair: If you'd like to make an opening statement or comment, then there may be some questions.

Mr Mitchinson: Sure. I just have a few comments to make. I think it's clear from the quote the member just read from the former commissioner's letter that the Information and Privacy Commissioner does not see rights to privacy as absolute rights, in any context. The right to privacy is an important value that society recognizes as such, but it's not an absolute value, and certainly in the context of public funds it is a relative value that must be balanced against basic public accountability expectations.

So there is nothing inherently flawed in the bill in the sense that it represents anything other than an effort to try to find the balance between public accountability and privacy. It obviously weighs in favour of accountability by definition. That's a decision, obviously, for the Legislature to make, whether they feel in the circumstances that the public accountability expectations should out-

weigh in principle, as opposed to depending on circumstances, which is what I think we're facing now, when the interests need to be balanced under the statute.

I think there's a clear precedent for this approach to be taken, and that's the act that the member made reference to on the salary side. It's clear that at that time the Legislature decided that the public accountability expectations for salaries over a certain amount of money outweighed any privacy interests that existed in that information. So it's not dissimilar in this case from the decision made at that time.

I thought it might be useful to speak very briefly to our experience with this issue, because we do have some. It has come before us. In some instances, as the member mentioned, certain information is disclosed and, in other circumstances, it's not. It's very fact-specific. It's dependent on argument, it's dependent on context, depending on the ability of the requester to make information public, depending on whether or not the payment has raised public policy considerations in a local community. It's fact-specific, as opposed to absolute. That's why you're seeing, as you made reference to, that sometimes information is disclosed and sometimes it's not. That's the personal information aspect of it.

The other time we encounter it is only under the municipal statute, the Municipal Freedom of Information and Protection of Privacy Act. It has an exemption claim in it, section 6(1)(b), which allows for the protection of information that was the substance of deliberations of an in camera meeting. As long as it's a properly constituted in camera meeting—and that would apply under the Municipal Act or under the Police Services Act or a number of institutions that exist at the municipal level, and often personnel-related matters are in fact the things that are discussed in in camera meetings—then, under our statute, you never get to personal information, because if it's a properly constituted in camera session where the record is dealt with, then it's an exemption claim that would apply to everything that would be covered by that meeting.

That's the other place we encounter it. So to some extent, the clarity that would be provided by this law would, I think, ensure a level of consistency that may not be possible under the current law. That's not to say that the current law is wrong at all, it's just that it results in inconsistency depending on facts and circumstances.

One thing we do encounter often on severance-related issues is that severances usually have a number of components to them, not just the amount of money. We find that requesters are interested in not only the amount of money; they're interested in whatever else formed part of a severance package. I would anticipate, if this bill is made into law, that that won't necessarily mean we're not also dealing with ongoing interest in other records that relate to severance, but presumably you know that.

Also, I think you use the term "termination" in section 3 of your bill. We often deal with so-called severance arrangements that emerge from a variety of contexts. I think "termination" is one; "redundancy" is another.

There are a number of terms there that we encounter which speak to the sort of circumstance you're trying to address. I think you should maybe be aware that the use of the word "termination" may have a meaning that is more narrow than you intend, or whatever.

That's really all I have to offer. I'm happy to answer any questions committee members have on this.

1350

The Chair: We'll start the questions with Ms Martel, and then the government side and then go over to you, Mrs Bountrogianni.

Ms Shelley Martel (Nickel Belt): Thanks, Tom, for coming in today. If you were to cover a broader range of possibilities where severance would be applied, you would use what terminology, "termination," "redundancy"? What else would the commission suggest to cover, if not all of the possibilities, most of the possibilities?

Mr Mitchinson: I think you should get your own advice on the right word. I think it's a legal issue. Words like "separation" are probably broader than "termination." There is some language that, if you wanted to, you could encompass more with than "termination."

Ms Martel: You're right when you say it's not just an issue of money, because there may be other bonuses etc that would be covered. In your opinion, as the act is currently written, does it cover remuneration in the broadest sense, or is there a possibility that the employer would only provide wages, per se, and exclude other information that would also be related to a golden handshake?

Mr Mitchinson: My reading of this bill is that it is money only, and that's defined in a similar way that the salary is under the Income Tax Act. Is that right? So it's just money.

Ms Martel: If you wanted to cover a broader range—and I apologize, because I don't know the provisions well enough of the government's line, including, "It's only money." Assuming it's only money that is referenced in that bill as well, what other definition, then, could you provide that would take it beyond money to other possibilities of remuneration that don't include just dollars?

Mr Mitchinson: What we are usually asked for, what's a common request that we would get, would be for the agreement: the separation agreement, the termination agreement. That's generally what we're dealing with. That's usually where we see things beyond the financial side.

Ms Martel: If this act were amended to ask for a termination agreement or a separation agreement, would the office have any concerns in that regard?

Mr Mitchinson: Again, I just think there's a rationale for a decision which establishes accountability expectations as outweighing privacy. So I don't see it as being fundamentally different, whether it's the amount of money that's paid out or it's the amount of whatever the package is that's provided. On a policy level I don't see a distinction there.

Mr Raminder Gill (Bramalea-Gore-Malton-Springdale): This disclosure that we talk about—coming to you,

Marie, if you don't mind—when do you see that happening? Should it be when the contract is signed, should it be after the employee leaves, should it be after they accumulate the \$100,000, even though it may not be \$100,000 as they leave? What sort of timetable are we looking at in terms of this disclosure?

Mrs Bountrogianni: At present, the way the bill's written, it would be upon termination. However, if this committee would like to amend it so that it's open at any time after the contract is signed—again, this is not interfering with any contract directly. Perhaps ethically it's interfering with the contract in that people would be a little more careful in signing, but this is after the fact. At this point, it's upon termination. Quite frankly, I don't think most people really want to know or care to know severance packages of people who are there doing their work. It's when there is a disturbance, when there's bad blood, when there's questionable performance and then they're let go and they don't have the right to ask, that most people get very upset.

It's not about us wanting to know private information on everyone, what they make and that. Even though we should have the right to know, most people don't want to know that. But when there are particularly questionable terminations, people do feel their rights have been trampled on when they don't have the right to ask.

Mr Gill: You mentioned, Mr Mitchinson, that some of these contracts at the municipal level are in camera, so the public doesn't get to see or know about them. I know Ms Di Cocco's bill sort of makes the public meetings—

Mr Steve Gilchrist (Scarborough East): It's Mrs Bountrogianni's.

Mr Gill: No, another bill we talked about talks about having more access—nothing should be in camera. Do you have any concern about that?

Mr Mitchinson: Let me just back up here a little bit. Open meetings laws are common statutes in the United States that complement open records laws. So they are looked at as very much part of the whole kind of accountability framework of the public sector. I think that, generally speaking, when those laws have been enacted, they've very comprehensively looked at the issues of public access versus operational concerns of municipal institutions and police institutions and have come up with a fairly detailed process for determining what should be in camera and what shouldn't be in camera and a right of appeal of that determination. I think that we as an organization have no problem with the idea that there are certain things that should be done in camera. It's much the same as at the provincial level, where there's a mandatory exemption claim for records that relate to the substance of deliberations of cabinet.

There's no issue as to whether or not some level of confidentiality should exist, no matter what the public body is. I think it's just a matter of whether it's clearly defined and whether it's consistent, I guess, with broader issues of public accountability.

What happens under law, as it is presently, is that if the record itself was created in the context of the in

camera session, then that's the end of the story. The record itself is automatically exempt if the institution were to claim that exemption. So there's no sort of balancing of interests, if you will. It basically has said that if it's in that context, then it has nothing to do with the personal information per se that's included in the severance agreement; it's to say that any record created in that context by definition should be protected from disclosure when balanced against accountability. The balance there is between the confidentiality to do business as an institution against accountability for disclosure, as opposed to the privacy of the government accountability, a balancing that would exist outside of that context.

Mr Gill: I know the title says "former public sector employees." There are cases, as you know, where somebody is a public sector employee and—whatever term you want to use: redundancy or termination or separation or downsizing or re-engineering—they are let go and, the next day, they are hired in public service again.

Mr Richard Patten (Ottawa Centre): As a consultant.

Mr Gill: No, not always. So they are not really public servants. Where do you go from there? When do you disclose? Is there a concern of double-dipping?

Mrs Bountrogianni: Are you asking me this question?

Mr Gill: I'm asking for any clarification. But it may be something to look at.

Mrs Bountrogianni: It's a very good point, because that happens frequently. In fact, if we had the records of those, before we hired them, of how many severance packages they got across the province, that may affect our hiring decisions. So perhaps "former" shouldn't even be in the title. That's something we can discuss, perhaps, in clause-by-clause. That's a very good point.

Mr Gill: My concern—again, not as a criticism but from a suggestion point of view—is that you don't want to be limiting well-qualified people coming to the public service. In the private sector, they don't have to disclose; in the public sector, they have to disclose. So it's something one should always be on the lookout for.

Mrs Bountrogianni: May I respond to that now?

The Chair: Sure.

Mrs Bountrogianni: That is the criticism on the other side of this bill, that we can limit good applicants because of that privacy issue. I understand that. However, if you have gone through and done the research that I've done and looked at the public uproar over not knowing, that gets more publicity than the actual severance package. The uproar about not knowing and the guessing of the amounts colours and brands that executive to a larger extent, in my opinion, than "Here's what he's getting."

Of course people are going to complain; people complain about everything. We know that as politicians. Then it's accepted or not. But the fact that we don't know—and there are rumours, sometimes from the hundreds of thousands to millions. You know how that

can start and end. Everyone still thinks we all have pensions, even though we don't.

Mr Patten: We don't?

Mrs Bountrogianni: No, we don't. You might, Mr Patten, but I don't, that's for sure.

Interjections.

Mrs Bountrogianni: Let's not get into that. I don't think anyone here wants to get into that.

But that public perception sometimes colours those executives more than the public just knowing the amount. Whatever outcry there is will be there and it will be done with. But not knowing often keeps those newspaper articles going and going and going, until that person basically has to leave town. So I think that's a moot argument in many ways.

I also believe that when you are serving the public, you have that choice, and many of us here have that choice. Many of us here made twice and more the amount of money we're making here. We probably question why we did that, but we made that conscious decision to make less money to serve the public. So I would like to think that there are applicants out there for these positions who also make that conscious decision, because there are advantages and disadvantages in each realm, private and public. But I have heard that criticism. I'm taking it into account, which is another reason why this is a very light bill. I hate to admit it, but it's very light. It basically says this detail should be public.

1400

The Chair: Any other questions from the government side?

Mr Gill: Again, just a suggestion: perhaps the disclosure should be at the signing of the contract level so that it's really public, rather than a year after the fact and nobody can do anything about the future contracts or anything.

The Chair: Anyone else? No? Any questions or comments of the privacy commissioner from the official opposition side?

Mrs Bountrogianni: Thank you very much for your presentation. I appreciate your comments. I would like to ask you to comment on the level of consistency right now. I understand there are some severance packages, for example, or some areas where we are allowed to ask for everything. Which areas are those in the public sector?

Mr Mitchinson: You're allowed to ask for anything in any of them.

Mr Gill: You may not get it.

Mr Mitchinson: Yes. I think that, setting aside the closed-meeting issue, if it's strictly a personal information issue, then there's a section in the act which basically says that someone else's personal information is a mandatory exemption claim so that no one is entitled to it, subject to certain exceptions that are in the act. One of the strong presumptions of an unjustified invasion of privacy is a financial transaction or something that relates to someone's income and assets. So there is a strong sense that the information should not be disclosed beyond the person whose information it is.

You then get into a balancing where, if public scrutiny is a consideration, then that can be factored into the mix. There's what we refer to as a public interest override, which also applies in a certain context, but you're dealing there with exceptions, not the norm. So that's why you will see that a lot of times it is not released because it's a mandatory exemption claim. It's an uphill battle for anyone to get access to other people's personal information in that context.

One of the times you would see it being disclosed would be if there was an issue in the community and there was some need to disclose the document for the purposes of substantiating the public scrutiny of the institution—whether they've done a good job. That can be a strong argument, often made by a member of the media and that sort of thing. That's why it's fact-specific and circumstance-specific, and that's why you see the distinctions.

Also, there's the issue of consent. There are some circumstances where the individual will consent to certain parts of their severance package being disclosed. That's another time where you might see it, where in some contexts, it would not be accessible at the end of the day under the law, but because the person has consented to disclosure, then it's disclosed. People do that.

Mrs Bountrogianni: I've noticed that has occurred in a couple of instances.

Mr Mitchinson: Yes. People do that.

Mrs Bountrogianni: From what I'm hearing, perhaps in clause-by-clause we could change section 3. We could change the word "terminated," and perhaps upon termination, the termination agreement, or whatever we decide to call it, would be made public rather than just the fact that, yes, they got \$100,000, but no mention of the car, the house or whatever other bonuses we may not know of.

Would you have difficulty with having an agreement made public?

Mr Mitchinson: As I was saying to Ms Martel, I think it's your decision. I don't think the accountability rationale is any different. I think the plus side of a scheme like that would be that people would not then be coming under our statute to get the rest of the stuff that is part of the severance package. In that way, I guess there's some sort of finality to it, if you will. But it's not consequential to us. We can work within either system. It's fine.

Mrs Bountrogianni: That's good to hear. I'm not naive enough to think this will solve all the democratic problems of severances. My motivation was that if it was simple it might get passed, and it was a good beginning for disclosure. Thank you very much.

The Chair: Mr Hastings, did you have a question?

Mr John Hastings (Etobicoke North): Yes, I have a question for the assistant privacy commissioner. In section 3, dealing with the availability of this information without charge, what exactly is your understanding of the practice in the other provinces that Ms Bountrogianni

referred to in her opening remarks: Quebec, Alberta and particularly the federal government? What is the practice with regard to charging for this kind of information under their privacy and freedom of information acts?

Mr Mitchinson: Most privacy and freedom of information acts have a request fee, which would be nominal. I think ours is \$5. I think that would be the norm, around the \$5 mark, to make a request under the act.

All legislation has a scheme of fees that cover certain activities such as photocopying charges, search fees, preparation fees, that sort of thing. Then there are some jurisdictions—and if Ontario is not the only one, I'm having trouble thinking if there is another—where there's actually a fee for an appeal. In Ontario, if you are denied access, you have to pay to appeal that decision to our commission: \$10 if it's a personal information request and \$25 if it's a general records request. So there are fees in any system, I guess.

We've argued, and it's been in our annual reports a number of times, that we think the fee system in Ontario is out of line, generally, with fee systems that are present in other freedom of information schemes. I know that under the laws you are referring to, the freedom of information laws in these other jurisdictions, they would not have as much of a fee system in place as we do in Ontario.

I think a very common provision within a fee scheme that would apply, I would say, in all instances to address this type of record is that the first period of search time in all jurisdictions except Ontario is free. It used to be that way in Ontario; the first two hours of search time was free to a requester. That is not the case any more. Now search times are chargeable from the beginning. So in BC or any of those other jurisdictions you're referring to, perhaps there would be a photocopy fee for the document itself, but that would be it. It would be a nominal charge. In Ontario, we would find that some jurisdictions would be charging search time and preparation time for these documents as well, so the fees would be higher.

1410

Mr Hastings: Are you telling me that Ottawa—if I go and make a request for the first time under the general records provision of their act, I'll get two hours free?

Mr Mitchinson: When you say "two hours," it makes me pause.

Mr Hastings: For the first time?

Mr Mitchinson: When you say, "Is there some time free?" I would say, "Yes, there is."

Mr Hastings: If somebody was on a fishing expedition, and they wanted severance disclosures for a number of people, let's say in the education world or the health care world, would that come under a general records provision or under each specific name that presenter had requested? How would you handle that?

Mr Mitchinson: The term "general record" is a term of art under freedom of information law. It means any request for documents that isn't a request for your own personal information. So anything in this context would be a general records request unless you, for some reason,

were asking for information about your own severance, which is highly unlikely. It would always be a general records request.

Mr Hastings: Do you think there's any potential precedent being set here that when you have no fee for the first time, the first hours, and maybe some nominal cost for photocopying, then that could become a potential case by other requesters for information outside the disclosure of severance, and they could take it to court, if it were passed in the format it's presented in now in section 3?

Mr Mitchinson: If it's passed in the format it's presented in now, the only thing it would cover would be the \$100,000 payment. If you wanted anything else, it would come under our statute and would be subject to our fee scheme. So there wouldn't be any impact on our statute beyond the narrow scope of this provision.

Mr Hastings: Thank you.

The Chair: Anyone else? No? Thank you very much, Mr Mitchinson.

ONTARIO PUBLIC SERVICE EMPLOYEES UNION, LOCAL 240

The Chair: Next we have Mr Fred Deys, a member of OPSEU local 240.

Mr Fred Deys: Thank you very much. I'm the president of OPSEU local 240. I represent the faculty, librarians and counsellors at Mohawk College in Hamilton and Brantford. In many ways today, I think I represent all the staff at the college, and I want to thank the committee for the opportunity to present our views on this legislation and to thank Dr Bountrogianni for putting the proposed bill forward.

As a result of a recent experience we were involved in at Mohawk College, I've come to appreciate how a public institution like the college could have benefited from this legislation. Our college could have avoided a costly and disruptive experience had this legislation been available prior to our hiring a new president in April 1997.

Some time after the new president's tenure began, it became clear that a mistake had been made. Even though the board has now resolved the situation, we would like to ensure that other institutions are protected from similar experiences. Oddly enough, our support for this legislation is not in order to discover the details of the former president's severance package. Instead, our support stems from a perceived need for future employers to be able to access this important information prior to making hiring decisions.

Had our board had access to severance information, they would have had knowledge of previous settlements that may have influenced their hiring decision. It became clear only after the fact, initially from old newspaper clippings and then from formal and informal inquiries that were made, that at least one and perhaps more previous employers had paid severance or other types of settlements to the individual. We are convinced that this

information was difficult for the then board to obtain, and thus it had no way of knowing some basic facts about the individual's employment history. Many of us believe that if the board had had this kind of information, it likely would have made a different decision.

Let me emphasize that not all people who receive a termination settlement are poor choices for future employment; however, hiring decisions should be made understanding the basic work history. In many cases, an individual can explain rationally and effectively to a prospective employer the circumstances surrounding a termination. Those who cannot ought to be concerned.

Our goal is to help public institutions gain as much information as necessary to hire the most suitable candidate to lead an organization. Hiring the wrong person is something that organizations inadvertently do from time to time. These unfortunate mistakes can be made at any level of the organization, and although they're costly, the impact is limited at the lower levels of the organization. The same cannot be said when dealing with senior managers such as presidents, vice-presidents or CEOs of colleges, universities or hospitals. The quality of service and productivity can be severely eroded by a poor choice. Public confidence in these important institutions is also at stake.

If you review our written submission, you will read in more detail our rationale for supporting the bill. We have three reasons for support, which I think have been alluded to already this afternoon. One is public accountability, which I think is clear to everyone.

The second is that when boards or other public service sector employers are faced with the need of settling with someone, they're often at the distinct disadvantage of not knowing what a range of proper severance is. I think lawyers will tell you that for non-unionized employees it normally falls in the range of three or four weeks of severance per year of service, but the high-profile terminations we've heard about earlier today do not fall into that range. In most cases, individuals with no more than three to five years with an organization are reportedly being given at least one to three years of severance pay. I think volunteer boards or public sector employees don't always understand what the normal range of severances is, and I think this would help.

The third is the recruitment one, which I think would have helped our college. This kind of information, we believe, is crucial for public sector employers and public sector institutions to make good judgments and good decisions when they hire people in the upper end of the organization, and the rationale is explained on the third page of our submission.

In addition we would like to respectfully make some suggestions for some minor changes. Again, some of them have been addressed here as well, and they're also listed in the submission.

We'd like to suggest that you clarify the definition of what should be included in the severance payout to be reported, so that institutions cannot make the payout in an alternate form so disclosure can be avoided.

Secondly, we think the definition of termination needs to be clarified, so that institutions cannot simply report these as retirements, or other words that have been used here this afternoon, again to avoid disclosure requirements.

Lastly, there has been some talk about the timing of the disclosure. I think the bill suggests that the disclosure be made as the payments are made on a year-to-year basis. We'd like to suggest that the entire payout amount, regardless of the time frame of the payout, be reported at the time of termination and not in the years the payments are made, as I understand the legislation would suggest.

With those clarifications, we're confident that the bill will meet its intended purpose.

This is a brief submission from us, but we'd like to strongly urge the committee and the Legislature to adopt the bill with these suggested revisions.

The Chair: Comments and questions from the government side?

Mr Gill: We do appreciate your time this afternoon, Mr Deys. Under your local 240, what is the range of normal severance these days, at a higher level versus a lower level? Is there a standard?

Mr Deys: My members are covered by a collective agreement. Our collective agreement contains severance provisions for those who are severed from the college. Those provisions are anywhere from, if memory serves me, 11% for a three-year employee—that is, 11% of a year's salary for a three-year employee—up to a maximum of 49% or 51%. So even employees who have been at the college for up to 20, 25 or 30 years get no more than six months' severance if they're severed.

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Mr Gill: You don't have the three to four weeks per year unlimited provision sort of thing?

Mr Deys: No. My understanding is that's the common law, if you will, or that's what the courts are routinely providing to people who are not covered by collective agreements.

Mr Gill: In terms of good hiring practices, one would think the standard practice would be that a prospective employer would go back to the previous employer, or somebody there, and try and get references. I haven't heard too many cases where you have actually looked at the private or public sector on how many times somebody has been fired, because they're so subjective; you don't know what the causes might have been. Unless somebody lists the cause specifically, how do you know what the cause was? That should not be subjected to hiring practices. That's my opinion.

Mr Deys: The truth of the matter is that many times when some of these high-profile individuals are severed from their employment, they have a termination settlement with their previous employer that includes non-disclosure and other disclosure components, and those components normally make it very difficult for prospective employers to get anything other than a pat answer about that particular employee; there's no way to know whether there was severance involved. You get almost no

information on some of these situations. I think prospective employers do have a right to some basic information about the circumstances surrounding previous employments. That is just in the best interests of finding the best people to lead these institutions.

Mr Gill: This methodology will not work if the person's coming from the private sector.

Mr Deys: That's right. Our experience is that on the list that was read out by Dr Bountrogianni earlier there are those, particularly in the public sector, who will go from public sector employer to public sector employer. It's almost a sport, if you will, for some. If the applicant is coming from the private sector, we can't tell as much about the history, I'll grant that, but I'm not sure that's an argument why we ought not to invoke this legislation.

Mr Gill: Maybe my colleagues have questions.

The Chair: Anyone else? No? Ms Bountrogianni.

Mrs Bountrogianni: I actually see Mr Gill's point. In fact, sometimes having broad experience from various public sector backgrounds is a good case for getting the job. However, in some of the cases that I mentioned, and there are three that I can think of—and today's not a witch hunt, so I'm not mentioning names—it was found out after the fact when they were dismissed from Hamilton that this was not the first time they were dismissed from a public sector institution. Again, no one knew how much severance these individuals received, but they did receive severance and then receive severance, and then received severance again, in some cases three times—in one case I know for sure three times.

If you're not ashamed of what you've done, why not make it public? If you've done a good job somewhere, you've got a great termination agreement with all sorts of letters saying, "This person did a great job, they did their job and they've moving on," that's actually a badge of honour, versus very tight-lipped people when they give references. People are very careful and almost afraid when they give references because of—I don't know what the term is; everybody likes to sue everybody—the legal implications. I'd like to take care of a little piece of that with this legislation.

You commented better than I ever could to Mr Gill's point about the private sector. It's true, we don't, but is that any reason to make the public sector any more or less accountable? I think that's a separate issue, at least for the time being.

Ms Martel: I'd be very happy to move an amendment or have an amendment agreed to that would provide for disclosure in the private sector too; then we could get around this and there would be no problem here today. I'm not sure Mr Gill was seeing this as a reason not to support this bill, that it didn't apply to the private sector, but that might be one way, because I think those disclosures would be interesting too.

Mr Gill: I voted for the bill in the Legislature. I voted for it.

Ms Martel: In terms of the private sector, though, if you wanted to really end people's concern and make it very public, you could also do that.

You've obviously followed what has gone on in your neck of the woods, which leads you to come here. Have there been specific incidents, though, at the college that were part of this? I apologize if I didn't know who some of those people were. Is it also a specific incident at the college that had you come forward today to be supportive of this bill?

Mr Deys: In April 1997, we hired a new president. Despite some fiscal challenges that we had at the time, we were all hopeful, we were all positive. Things began to concern a number of people in the college community. Over the next year or two they became progressively worse. I'm quite confident when I say that many put the responsibility for that on the new president. The board has since rectified the situation. The contract was terminated prior to the end of the first five-year term, but as time went on it became obvious to us that the individual in question had been severed from at least one previous public sector position and perhaps as many as two or three—we're not sure because it's very difficult to get information—and that there were settlements—at least one and perhaps more—with the previous public sector institutions that the individual was at. We tried to access that information through the Information and Privacy Commission, but we didn't meet whatever criteria were necessary at the time, so we had no way of finding out exactly what the packages looked like; nonetheless, we understand there's at least one and perhaps more.

When the board finally made the decision and things were settled last year, it became obvious to me, from reading the newspaper and from watching some other situations in Hamilton, that this wasn't just a one-time occurrence. We've had the same thing at least twice in the hospitals. We've had a CAO of the municipality who was in the newspaper a lot again. I don't understand those situations as well. We've had a president of the university also have their time cut short and severance packages discussed in the paper.

In our particular case, the reason I'm here is because I honestly believe that if there was some repository like there is with public sector salary disclosure, where these things—I can go to the Internet and find the public sector salaries. If there was a way that any of us could access this information about all the packages and the values of all the packages over the last X years in Ontario in the public sector, I think the board of the day—and I wasn't on the board—perhaps would have made a different decision, but at least they would have been aware of the severances and would have perhaps been more diligent in trying to understand why those severances took place.

As it is, I think the termination agreements and the severance agreements that are typically signed include so much non-disclosure that even doing the due diligence now leads you nowhere, leads you to people who are just going to give you a pat answer, that the person "was employed here from 1994 to 1997." I think the scales are somewhat imbalanced at the moment. The public sector employers and the institutions don't have the information

I think they need to make the right decision, and that's what brought me here.

The Chair: Thank you very much, Mr Deys, for your presentation.

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ONTARIO PUBLIC SERVICE EMPLOYEES UNION, LOCAL 273

The Chair: Next we have OPSEU local 273. Debbie Mattina will be presenting. Welcome.

Ms Debbie Mattina: I apologize. I normally would do this off the top of my head, but I've had a couple of family crises this week and I almost cancelled coming, but because I believe very strongly in this, I took the day to come down. Also, I would like to thank you for the opportunity to speak here and for the opportunity to have witnessed the swearing in of our new Lieutenant Governor. It's a very memorable day for me.

To get on with the reason why I'm here, I've come to speak to you today in my capacity as the vice-president of OPSEU local 273. This local represents almost 800 registered medical technologists employed with the Hamilton Health Sciences. Provincially, OPSEU represents over 20,000 health care workers. I suspect that most of you wear many hats, and in order for you to understand where I am coming from, perhaps it would be helpful if I let you know about some of the hats I have worn.

Not so long ago I chaired the committee to save the Henderson Hospital, which is one of the four sites operated by Hamilton Health Sciences. This hospital was targeted for downsizing and loss of emergency services. Hamilton and area residents rallied around this cause, collecting some 75,000 signatures and mounting a series of forums and rallies that were truly remarkable in their determination and tenacity. Our struggle crossed all social, economic and political lines. As citizens and taxpayers, we were unwavering in our commitment in support of our hospital. I feel that today I also represent this group of seniors, men and women, children, businessmen, labourers, doctors and nurses, people of all walks of life, and most especially the patients, who resolutely demanded accountability for their health care.

About this time last year I was sworn in as a member of the board of directors of the United Way from Burlington-Hamilton-Wentworth. In April of last year, I was approached by the Hamilton Health Sciences Foundation and asked to explore the possibility of pursuing a joint fundraising campaign. The foundation fundraises to provide for equipment and patient comfort items while the United Way, as you know, fundraises to support a number of community agencies and services. My employer seconded me to the United Way, and in conjunction with my counterpart at the foundation we mounted a very successful fundraising campaign in the hospital. The hospital was awarded the campaign of the year from the United Way. The employees of Hamilton Health Sciences pledged over double their previous donations,

and I am very proud of this achievement. These people give care with their expertise, with their hands, with their hearts and with their wallets. They know the services they provide are vital, and so they dig down deep, emotionally and financially, to support the community they serve.

Along with these hats, I am currently a wife, a mother, a daughter, a medical radiation technologist, a taxpayer, a citizen and an advocate. I speak to you today with a passionate conviction that Bill 53 must be passed into law.

This next section of course is information that you all know, but again it goes to the background.

Health care in Ontario is funded by both provincial and federal tax dollars. Over the course of the last number of years, those dollars have become increasingly more difficult to access. The province has demanded of the institutions that it funds a process of restructuring. Ostensibly, the restructuring was implemented in order to rein in escalating health care costs and to make the hospitals more fiscally responsible. To that end, hospitals were closed, some downsized and others merged in order to comply with new fiscal guidelines set out by the Ministry of Health for the province of Ontario. I believe in fact that it is now against the law for a hospital to even run a deficit.

Hospital workers have suffered through enormous upheaval, perpetually high stress levels and an ever-growing workload during this unprecedented time of change. We've done it to conform to the fiscal limitations imposed upon us by the provincial government. Patients routinely wait several days in emergency departments for beds to be admitted to, patients are discharged sicker and quicker and there appears to be a critical shortage of qualified medical personnel. All of these situations could be relieved by more dollars, yet we continue to throw obscene amounts of money into severance packages for exiting executive officers.

During the restructuring process in Hamilton, there were at least five severance packages—in fact, I'm only going to speak about five that I know of—to top executive officers of Hamilton Health Sciences alone. Those packages ranged from approximately \$280,000 to an estimated \$800,000 and totalled nearly \$2.4 million. That amount of money was paid out with no accountability to the taxpayers of this province. Not only was there no accountability, but according to current law these taxpayers have no right to know at all how many of their tax dollars went into paying out these packages.

I've so far only discussed the very top of the severance package pyramid. One of the things that we found occurred at Hamilton Health Sciences during the merger scenario—and ideally when reorganizing occurs the object is to re-emerge with the most efficient, financially responsible and most talented organization possible. That should be helped along by the availability of a number of qualified incumbents to apply for each position. However, the process becomes somewhat skewed when personnel are retained not because of their talents but

because of the size of their severance packages. Then we end up with program directors who have no idea of the program they are directing and managers who have no idea of the operational needs of the areas they manage. The number of zeros in the severance package determines the successful applicant, not the qualifications and performance evaluations.

Although simply requiring that public sector severance packages in excess of \$100,000 be disclosed does not guarantee that obscene amounts of money won't be offered ever again, it does require the boards of those facilities to take responsibility and become accountable for the packages they negotiate. Public scrutiny makes for a powerful conscience. The reality is that the days of unlimited spending are over. The dollars must be utilized in such a manner as to provide as much value for the patients as possible. The massive golden handshakes devalue our health care dollar and diminish credibility as responsible, caring administrators of our health care system.

If this government is serious about the image it is trying to project and consistent with the message it has delivered on health care reform, it must support this bill. How can the public accept the delisting of services, the reduction of beds and programs and the downsizing and closure of hospitals as being a necessity of tax and health care reform? I say that happens not very easily if the very government whose initiatives endorse these efforts refuses to make public the information on a common practice that clearly usurps millions of health care dollars each year.

I recognize of course that severance packages are a valid and necessary component of the competitive job market in every facet of the private and public sectors. I would, however, have a great deal of difficulty understanding why \$2.4 million, enough to fund approximately 40 nursing and technologist jobs for a year, got up and walked out the door without the public having any right to know where it went. If this has occurred in the hospital sector in Hamilton alone during the course of reorganization and represents only those severance dollars for five top officers, what is the cost provincially across all sectors and why don't I as a taxpayer have a right to know?

I urge you to exercise your jurisdiction and enact into law Bill 53. Thank you for the opportunity to express my opinions here today.

The Chair: Thank you very much. Where did we start last time? The government caucus. We will start with Mrs Bountrogianni.

Mrs Bountrogianni: Thank you very much, Ms Mattina. I understand what you meant, but I would like the committee to understand what you meant by saying that the number of zeros in severance packages is what often led to someone getting the job or not. Could you discuss that a little more?

Ms Mattina: Sure, I can discuss that. We went through a merger process in late 1996, probably 1997, where the former Chedoke-McMaster Hospital merged

with the Hamilton Civic Hospital to become the Hamilton Health Sciences Corp, at that time; "Corp" has since been dropped. At that particular time, obviously there was an abundance of managerial positions that needed to be vacated because they couldn't duplicate everything.

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Jennifer Jackman was one of those persons, and her associate Pamela Reid. They both exited, taking severance packages. The other incumbent CEO did apply for the job and did not get it. He exited as well. But in the next echelon down, you had two VPs of finance, two VPs of medicine, two VPs of this program and so on. What happened then was that in trying to get rid of these people, what became the primary consideration was how big the severance packages were, right? We were facing last year, as you know, a \$100-million deficit in Hamilton. You can't send somebody out the door with half a million dollars if you can send somebody else out the door with \$100,000.

Unfortunately, what we saw happening was what we called the Mac attack affectionately in the health care system in Hamilton. Routinely, most of the managerial positions out at Mac had larger severance packages than the Hamilton Civic Hospital's administrative people did, so they were let go in favour of McMaster people. It happened in my own department. I ended up with a manager who had no idea what diagnostic imaging was all about. He stayed less than a year, took a severance package and left. That happened throughout the hospital. We ended up with people who were administrators but they didn't necessarily administer in diagnostic imaging or in nursing or whatever. It's just that they had this huge severance package, and if you're an administrator you can be an administrator anywhere, and then rely on the department manager, per se, to bring in the expertise. To me that's simply not an appropriate way to determine who's going to run the coop kind of thing.

Mrs Bountrogianni: Just before I give it to Mr Patten, again, the effect of this bill won't be to solve that problem immediately, but it may be over the years, when people get used to the idea that the public is watching and wanting to know and will eventually know. Those sorts of agreements will be more carefully laid out and signed and therefore that would be prevented, because there would be more equality among the different sites. It was so skewed in Hamilton as to who was paid what at one site, who was paid what at another. I actually felt for management when they had to go through that process. It was difficult for all sides, management and the unions. But I thank you for clarifying that.

Ms Mattina: Could I just clarify that one a little bit further? Again, in the Jennifer Jackman and Pamela Reid case, there was actually a clause that tied the two severances together, which the public was not aware of. If Jennifer Jackman left as the CEO, then Pamela Reid had the right to also leave and follow her, and that was written into her severance clause. The public should have been aware of that. Jackman had imported her from their previous place of employment in the first place. It was in

Pamela's contract, or at least that's what was reported, that if Jennifer Jackman left, then Pamela Reid also had the right to take the severance package and follow her. To me, if those facts had been public knowledge, the board that agreed to those terms would have, I'm sure, scrutinized that deal a lot better than they did and been much more diligent in determining what was best for the hospital and the patients as a whole.

Mr Patten: Likewise, I don't think this changes the bill at all, but you've identified a very important aspect, and that's the hidden costs. We know what the costs of mergers are in the aggregate. You wonder, how come this is so expensive? You see it's because of severances, this kind of thing, the detail on that, but you illuminated this particular point and I think it's extremely valid. At some point, surely, there should be guidelines for public institutions related to severances, because in certain instances at the managerial level, of course, some of these things are confidentially negotiated to begin with, where if anything happens in this particular contract beforehand, let's negotiate what kind of a deal might occur. So as we have severance arrangements for our public service, we don't have them likewise for our public institutions, per se. By "public service" I mean the government. I just wanted to reiterate that because that's a very good question.

Ms Mattina: If I may, I would like to make one comment. One of the impacts that I really didn't get a chance to say too much on—I just touched on it—is the impact on the staff. I mentioned how they fundraise, how they work hard, how they're working with the increasing workload and stress levels. I work as a union counsellor. I help people find solutions. I go to people who are having problems and refer them. I have never seen as many problems in the health care sector as I've seen these last few years under the weight and the burden of restructuring and the tax-dollar crunch. I see patients waiting in hallways and nurses breaking down. I see technologists going off on stress leaves. Our sick time incidences are increasing dramatically and the morale just falls through the floor when you hear the size of these packages that people are getting and you can't get a nurse to work in emergency or you can't take a day off to go to the doctor or to be with a parent who is sick or a child who is sick because there's simply no staff there and no money there to help you out. I think what we're seeing is that the infrastructure in the hospitals is simply crumbling under the weight of this.

These severance packages, the dollars that could be utilized so much better in patient care, are flying out the door at phenomenal rates, and we don't even have the right to know what's happening. So when you hear about it, as Marie alluded to earlier, through the press and how it's pumped and it's day after day after day, it has an enormous impact on the people who work in that sector and on the services that they provide. As both a taxpayer and a citizen, and a sometime patient, I want to know why the dollars are going there and who they're going to and if it's justified that that money goes out like that.

With public scrutiny, you are going to make people more accountable in what they do, and that's the long and the short of the whole argument.

Mrs Bountrogianni: Back in the mid-1990s, when the huge debacle of Jackman and her friend, because they were personal friends as well as associates, was published, a lot of people were asking for their funding donations back. They were actually calling up and saying, "I want my cheque back. I did not donate \$500 in order to go to her severance." So that has an impact on fundraising as well.

Ms Mattina: Actually, in that respect, that was the reason why the hospital itself approached me. As you may well understand, being a union executive I'm not always the best friend of the administration at the hospital. They approached me. They called me down to the VP's office and asked me, because I was very high profile in Hamilton at the time with the Save the Henderson, if I would help them to raise dollars for the foundation, simply because they knew the impact of what had happened in Hamilton had dropped their donations through the floor and they couldn't raise money. They asked me if I would join up with them and bring my credibility and my support from the public with me in order to raise dollars for the foundation. I did agree to do that and we did have a very successful campaign, but it's not near what it would have been prior to this whole debacle about severance packages.

Ms Martel: Thank you for coming today. I have one question that involves, I guess, the board's responsibility, because you mentioned that had the board known of the linkage between the severance packages, perhaps things would have been dealt with differently. I'm going to assume that the board was responsible for the agreement.

Ms Mattina: I don't think I said the board.

Ms Martel: So did I misunderstand you?

Ms Mattina: I think that had the board been required to release that information, they would have been more responsible in the deal that they made. Obviously they knew about the link; they made the contract. In fact, that whole board is now gone. There was no confidence in them and the board has been released and dissolved and, as you well know, Ron Mulchey was sent in as supervisor and so on. So it's just another big piece of the pie, but definitely the board did know about the package. They arranged the package. My point was meant to be that if the public had known about such arrangements, they probably never would have happened. Somebody would have thought better of the idea and put the brakes on.

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Ms Martel: Having said that, in the legislation we have before us some of those details would still only come out afterwards. But I guess your perspective is, if you start a process where that disclosure begins, then from the outset boards would be making wiser decisions about who they're hiring and the kinds of agreements they are reaching because at some point this may be

disclosed if there is an unhappy situation that results in a separation.

Ms Mattina: Absolutely. I mentioned that I am now currently on the board of the United Way, and I can tell you that foremost at every board meeting is the public's perception of how much money we spend in order to fundraise. Consequently, the cost of fundraising at the United Way has dropped significantly over a number of years because of the public scrutiny about how much money it costs us to raise dollars. We are now currently, at the United Way, one of the lowest in costs for the purposes of fundraising, in some instances as much as 10 cents on the dollar lower than other fundraising initiatives. It is strictly the public pressure put on the board to be responsible for the dollars that they're spending, and I believe it would happen elsewhere.

The Chair: Government members?

Mr Gill: I guess one of the concerns is not only the amount of severance but also the conditions, how different people are tied in. I think that's your concern.

Ms Mattina: I think the whole package deserves some scrutiny, whether it's the dollar value or whatever. I just think that with some public scrutiny in terms of how much is being put out there—there was some mention of a house and a car and so on. If that's part of the package, that should be disclosed too, because it has a definitive dollar value. I don't have any real interest in what personal relationships are. However, I do have an interest that if you go, the other goes, and that costs me double. If that were part of the deal for all public sector severance packages, the costs escalate pretty rapidly.

I would like to see more disclosure. I'm happy with the start. I'm happy with the idea of just getting the monetary value, the dollar value out there. I think the rest will follow. Most people don't have their spouse or their partner or their friend that comes along. I think that was an isolated incident.

Mr Gill: Continuing with what Ms Martel said, would you rather see the conditions and the package ahead of time, rather than after the fact?

Ms Mattina: I think my preference would be ahead of time, although I think the same effect would happen even if it were after the fact, because eventually, as I say, it comes right down to the boards being responsible. Like I say, in Hamilton the board was just dismissed. If you start making deals that are not appropriate, I don't think you're going to last very long. You won't stay on the board. It won't take long for the boards to get the idea that they have to pay attention to what's going on and what the public wants and that enormous severance packages are not appropriate.

You asked a question earlier about severance packages. We again have severance packages. As medical radiation technologists, if we leave, it's two weeks per year of service. However, it's limited to a maximum of half a year. If I walk out with six months' seniority—I have to have three years in to get any, but after 13 years you've reached your maximum and that's it, and I think

that's appropriate. Six months to find a job is appropriate. Three years to find a job is not appropriate.

Mr Gill: How long, do you think—it's somewhat related. How long do the search firms take to find a president of a hospital, let's say, since we are on hospitals? Any idea?

Ms Mattina: I would think the norm is probably around six months to a year. It goes out, it gets published, usually within Canada first and then, if there are no interested parties, they'll go worldwide. I would think the norm would be six months to a year and the interview process probably would take several months once a number of applications had been received.

Mr Gill: This \$2.4-million severance: how many people were involved in that?

Ms Mattina: Five.

Mr Gill: The maximum was \$1.8 million, I think somebody said?

Ms Mattina: I think that's what she was offered, but I think she took \$800,000. There was a real firestorm over that one, and I think she ended up with \$800,000. I know there were lawsuits and countersuits, and I believe the final figure ended up around \$800,000.

Mrs Bountrogianni: We paid for those lawsuits too.

Ms Mattina: Yes, sure.

Mrs Bountrogianni: That's not included in the \$2.4 million.

Mr Gill: I think my colleague might have some more questions.

Mr Gilchrist: Thank you very much for your presentation here. It really is heartening to see this is an issue where there is agreement on all sides. It is pure waste when any dollars are spent that aren't necessary.

You mentioned there was a cap in your forced retirement severance condition of half a year. While I respect the fact that Ms Bountrogianni has, in the second version, tried to bring in a less complicated act, I'm wondering whether at the same time it would be appropriate to put limitations on the term of severances.

In a marketplace where, if you're qualified, you'll have no trouble—particularly in your profession—getting a replacement job somewhere in the province, is a six-month standard appropriate, or even being doubly generous, one year, in the statute limiting the ability for anyone in the public service to get more than a one-year severance amount? Would that be a responsible step for us to take?

Ms Mattina: From my position it certainly would. I have no problem with that whatsoever. To be realistic, it would have to be compared to what's out in the private sector, because we don't want to end up with all of the private sector throwaways. We do want to have good management, and in fact it's crucial to the effective operation of our hospitals, and I'm sure our colleges too. However, if you do cap it, I think it would have to be something that would have to be revised or reviewed from time to time. Obviously inflation and market forces and so on work on things like that.

But if you cap it in terms of, as you say, a half-year or a year, whatever the industry standard would be, I would think that would be quite acceptable.

Mr Gilchrist: Would one of the things you would be comfortable taking as the direction for that number, whether it's six months or one year, be court rulings? We have under the Employment Standards Act a rule that says you're entitled to one week for every year of service. It's my understanding that even today judges are loath—it's a very rare circumstance, even with the best of cases and you absolutely were fired for the worst of reasons or no legitimate reason, that a judge would go as high as one month for a year of service.

Phrased that way, if that is the upper limit that you would ever win in court, if we knew that was the worst-case scenario anyway—if you take us to court because you don't like the way the hospital board is dealing with you, the most we're going to lose is one month for a year of service—wouldn't it be responsible for us to put that in statute? And you're right; as the head of the Red Tape Commission, I can tell you that we believe very much in sunset laws. We should be forced every five years to look at everything on the books. Would that be an appropriate standard for us to take: whatever judges believe is the rule of thumb?

Ms Mattina: Who am I to overrule a judge? I'm sure that there are lots of precedents out there to look at; there is certainly lots of direction that you could get from case law or cases that have been settled in the past. My point is simply, it's your job as the legislators of this province to deal with where you set that limit. I'm just saying to you that, as the taxpayer, as a public service employee, I think it is my right to know what those things are. How you come to that end and what you finally put on it has to be better than what we have right now. Right?

Mr Gilchrist: I agree. Thanks, Debbie.

The Chair: Thank you very much for your presentation and comments.

That's the last presenter we have.

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COMMITTEE BUSINESS

The Chair: Under normal circumstances, this matter would now go back to the committee for further discussion and we would set out the rules by which amendments to the bill, if any, would be made—the time limit. That would normally happen at our next meeting, whenever that is, whenever the House comes back. That's how I propose to deal with it unless there are any comments from anyone to that.

There's one other item on the agenda—Mr McLellan is here—and that deals with the report writing. He just wanted to have a very brief discussion about that. Could you come forward, please?

Interjection.

The Chair: We're not going to talk about the reports themselves, but just about the manner in which the reporting is going to be done.

Have you got any comments, Ray? Would you like to start this off?

Mr Ray McLellan: Yes, I think that what I'd like to briefly get instruction on is where we're going in terms of reports we want to have prepared and, secondly, the format as well.

In terms of the actual items that we want to report on, it seems to me that we would probably start with our chapter 3 items. We had five chapter 3 items. If you want me to refer to those quickly—I have a list of them here. If you want me to hand that out, maybe that might help. I'll wait for that to be handed around.

It would seem to me that we would want to deal with the food industry program, 3.01; 3.03, which is integrated justice; 3.05, the violence against women program; 3.07, the community reinvestment fund; and 3.11, the road user safety program—those five, and then whether or not we would want to get into the chapter 4 follow-ups. In the past we haven't dealt with those and we've left Hansard to stand as the record of our deliberations of findings on those items.

One other item that we had talked about—and the Provincial Auditor might want to comment—dealt with chapter 1. We had the Ontario Innovation Trust and also we dealt with the public accounts. Mr Peters might want to comment on that particular item on auditing procedures.

Mr Erik Peters: If you will, just one option on that is to let Hansard stand as the report. That would be an option. But it strikes me maybe we should separate the two. One is to have a report on Ontario Innovation Trust and to separate it out from chapter 5. I think those were different issues that were discussed in those two. My recommendation would be to at least have a report on chapter 1, Ontario Innovation Trust.

The Chair: Can I suggest that we do the chapter 3 items in the order that they were presented to the committee over the past three weeks? Then, following that, we follow it up with the report, with possible recommendations on chapter 1. That's normally the way it would be dealt with.

Mr Gilchrist: In terms of the recommendations, though, are you suggesting that you would be recounting things that have already been put forward, or are you suggesting that there needs to be another meeting to review the report that you were talking about producing here today and affording each of the parties an opportunity to make final recommendations?

The Chair: There's no question about it: each one of these reports would come back by way of a draft report from the researcher and then it would be discussed by the entire committee and amendments would be made.

The second issue—I think the more important issue—that you wanted to talk about was the nature of the report. In the past, the reports have always been very lengthy, and the suggestion has been made that we stick strictly to the recommendations, perhaps with one or two cogent reasons as to why we're making that recommendation, so

that we end up with reports that are much shorter than they have been in the past and, in effect, make the auditor's report an appendix to the report rather than a regurgitation within the report itself.

Mr Gilchrist: That makes a lot of sense.

Mr Gill: Yes, it makes sense.

The Chair: Ray, did you want to make some comments on that?

Mr McLellan: That's something we've talked about for the last number of years, to get away from these long reports, which take a very great deal of time to get through.

I've had a chance to look at the federal reports on public accounts, and also the UK—I have copies if you're interested—and it seems to me that both of those, the federal jurisdiction and Westminster, stick really to conclusions and recommendations. They seem to be able to get through fairly complex items that I've looked at here within six or seven pages. That's my feeling: to move toward that format, if the committee's in agreement.

The Chair: Is there any comment on that?

Mr Patten: I thought we had already agreed we'd be doing that. I like the idea because I think it's easier to read, and when people discover it's easier to read I think more people may read it. If they want any further detail, they can always go to the appendix.

The Chair: Just for the record, we hadn't quite agreed on that. We had agreed that the report that Ray presented before the hearings would be shortened, and this is just a continuation of that, the final report being a shortened version as well.

Any other comments? Ms Martel? No. The government side?

Mr Gill: I think we actually took the liberty of doing a bit of that the other day when we said they shouldn't be full of appendices, but we're going to talk about exhibits and we're only going to attach the limited information. So we're in full agreement with that.

The Chair: Anything further?

Ms Martel: I want to follow up on the report that remains outstanding, which is the Ministry of the Environment, because that information is due tomorrow and I haven't seen it yet. So I'd like to know if it has arrived and, if not, are we scheduling that report, then, for the first meeting when we next sit?

The Chair: I would suggest that at the first meeting we have once Parliament's recalled we deal with the manner in which we are going to deal with the bill that was discussed today, plus finish off the environment report. With respect to the other report that's still outstanding, I understand that's to go to the subcommittee for final approval.

Interjection: That's right.

The Chair: Is that fine? Anything else? No. We stand adjourned, then, until the next meeting.

The committee adjourned at 1507.

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